

THE
CHARTER
OF THE
City of Astoria, Oregon

1923

This Charter which was amended and passed at the election held May 19, 1922, adopted the City Manager form of government.

O. A. KRATZ
First City Manager

Compiled, Edited and Indexed by
J. C. Sparks, Assistant City Manager

Published by Authority of the Common Council

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THE
CHARTER
OF THE
City of Astoria, Oregon

CHARTER OF THE CITY OF ASTORIA

DATES VARIOUS ACTS BECAME EFFECTIVE

Laws of 1899.....	Effective Feb. 27, 1899
Special Laws of 1901.....	Effective Mar. 19, 1901
Election Dec. 12, 1906.	Effective Jan. 7, 1907
Election Dec. 14, 1910	Effective Jan. 2, 1911
Election Dec. 11, 1912	Effective Jan. 6, 1913
Election Dec. 9, 1914.....	Effective Jan. 4, 1915
Election Mar. 22, 1916.....	Effective Mar. 27, 1916
Election Dec. 13, 1916.....	Effective Jan. 1, 1917
Election Nov. 5, 1918.....	Effective Dec. 2, 1918
Election Jan. 15, 1920.....	Effective Jan. 17, 1920
Election May 21, 1920.....	Effective June 2, 1920
Election Nov. 2, 1920.....	Effective Nov. 23, 1920
Election May 19, 1922. Effective Jan. 1, 1923 except provisions relative to elections and Sections 80 and 132 which became effective May 26, 1922.	

Note:—The original text of the various acts is used throughout.

Words supplied for the sake of clearness are shown in brackets.

Superfluous words are, in a few instances, enclosed in parentheses.

No attempt has been made to rearrange the subject matter or section numbering since this would require a legislative act.

AN ACT

TO INCORPORATE THE CITY OF ASTORIA IN CLATSOP COUNTY, STATE OF OREGON, AND TO REPEAL AN ACT ENTITLED "AN ACT TO INCORPORATE THE CITY OF ASTORIA, IN CLATSOP COUNTY, STATE OF OREGON, AND TO REPEAL AN ACT ENTITLED "AN ACT TO INCORPORATE THE CITY OF ASTORIA, IN CLATSOP COUNTY, OREGON, APPROVED OCTOBER 20, 1876," " FILED IN THE OFFICE OF THE SECRETARY OF STATE FEBRUARY 18, 1891.

[L. 1899 P. 747, approved Feb. 15, 1899. In this compilation the above entitled act is printed as amended by the Legislature, Spl. L., 1901 and by the People of the City of Astoria at elections held on Dec. 12, 1906, Dec. 14, 1910, Dec. 11, 1912, Dec. 9, 1914, Mar. 22, 1916, Dec. 13, 1916, Nov. 5, 1918, Jan. 15, 1920, May 21, 1920, Nov. 2, 1920 and May 19, 1922.]

CHAPTER I.

OF THE BOUNDARIES AND INCORPORATION
OF THE CITY

Corporate Limits

SECTION I. The city of Astoria is bounded as follows:

Beginning at a point in the center of the main ship channel of the Columbia river at its intersection with the east line of the Robert Shortess donation land claim, extended, in Clatsop County, in the state of Oregon; and running thence south along said extended line to an intersection with the north line of Birch street in the town of Alderbrook; and thence east along the north line of said Birch street to an intersection with the east line of Eleventh street in the town of Van Dusen's Astoria; thence south along said east line of said Eleventh street to a point where, if the same were extended, it would intersect a line drawn through the center of sections fourteen and fifteen of township eight north of range nine west of the Willamette meridian; thence west along the extension of a line drawn through the center of said sections fourteen and fifteen, to the point of its intersection with the east boundary line of the John M. and Susan L. Shively donation land claim; and thence south along said east boundary line of said Shively donation land claim to the southeast corner thereof; and thence west along the south boundary line of said Shively donation land claim to its intersection with the east line of the town of Williamsport; and thence south along the east line of said Williams-

port to the southeast corner thereof; and thence west along the south line of said Williamsport to its intersection with the meander line of Young's bay; and thence westerly along said meander line to its intersection with the extension of the easterly line of Dresden avenue, in the town of Taylor's Astoria; and thence southerly along the extension of said easterly line of said Dresden avenue to its intersection with the main channel of Young's river; and thence down said channel to its intersection with the main channel of the Columbia river; thence due north across said main channel of the Columbia river to the north side thereof; and thence up and along the north side of said main channel of the Columbia river to a point due north of the point of beginning; and thence south to the point of beginning.

[L. 1899 P. 747]

General Powers of the City

SECTION 2. The inhabitants of the City of Astoria are hereby constituted and declared to be a municipal corporation by the name and style of the City of Astoria, and by such name [shall] have perpetual succession, sue and be sued, plead and be impleaded in all courts of justice and in all actions, suits or proceedings whatever; may purchase, hold and receive property, both real and personal, within the city, for public buildings, public works, city improvements and property sold for taxes and street improvement purposes; and may lease, sell or dispose of the same, for the benefit of the City, may purchase, hold and receive property, both real and personal, beyond the limits of the City to be used as parks, for burial purposes, for the establishment and maintenance of a hospital for the reception of persons affected with contagious disease, for work houses and for houses of correction; also for the erection of water works to supply the city with water, may build, purchase, lease and operate street car lines, telephone, telegraph or lighting plants, and may control, lease, sell or dispose of the same for the benefit of the city.

All property, both real and personal, belonging to, and vested in the present City of Astoria, shall, on the passage of this Act, become the property of, and be vested in the City of Astoria as created by this Act. And they may control, lease, sell or dispose of the same for the benefit of the City. And they shall have a common seal and may alter and break the same and make a new one at pleasure.

[L. 1899 P. 748; Am. Elec. Dec. 12, 1906.]

CHAPTER II. OF THE GOVERNMENT OF THE CITY

Powers Vested in Common Council

SECTION 3. The power and authority given to the municipal corporation of the city of Astoria by this Act is vested in a Mayor

and four Commissioners, who together with their successors in office, shall constitute the Common Council, to be elected for the term and terms in the manner hereinafter specified.

[L. 1899 P. 749; Am. Elec. May 19, 1922]

Wards and Boundaries Thereof

SECTION 4. For the purpose of municipal representation the City of Astoria is hereby divided into four wards, and the boundaries thereof shall be as follows: The First Ward shall comprise all the portion of the City of Astoria lying West of the center line of Fifth Street, extended a sufficient distance North and South to intersect the North and South lines of the City of Astoria. The Second Ward shall comprise all that portion of the City of Astoria lying between the East line of the First Ward and the center line of Fourteenth Street, extended a sufficient distance North and South to intersect the North and South lines of the City of Astoria. (All) the Third Ward shall comprise all that portion of the City of Astoria lying between the East line of the Second Ward and the center line of Thirty-fifth Street, extended a sufficient distance North and South to intersect the North and South lines of the City of Astoria; and the Fourth Ward shall comprise all that portion of the City of Astoria lying East of the East boundary of the Third Ward.

[L. 1899 P. 749; Am. Elec. Dec. 12, 1906; Am. Elec. May 19, 1922]

Each Ward Entitled to One Commissioner

SECTION 5. Each ward shall be entitled to elect one Commissioner member of the Common Council.

That wherever and whenever the word Councilman or Councilmen shall be used or employed in the Charter of the City of Astoria, the same shall be considered and held as synonymous with Commissioner or Commissioners.

[L. 1899 P. 749; Am. Elec. Dec. 12, 1906; Am. Elec. May 19, 1922]

Term of Office of Commissioners

SECTION 6. That at the general election held on the first Tuesday after the first Monday in November, 1922, there shall be elected a Commissioner from each ward, who shall hold office for the term of years hereafter specified, and until his successor shall be elected and qualified, that is to say:

Of the Commissioners first elected to hold office under this Charter, two thereof shall hold office for two years, and two thereof for four years, and at the first meeting of the Council elected pursuant to this charter, the Commissioners so elected shall draw lots to determine the tenure of office, that is to say, they shall draw lots and determine which two of the Commissioners' term of office will expire on the 31st day of December, 1924, and which two shall expire

on the 31st day of December, 1926, and the drawing by lot shall be under the direction of the Mayor, and the result thereof be declared and spread upon the record of said meeting.

That at each biennial election thereafter two Commissioners shall be elected who shall hold office for the term of four years, and until their successor or successors shall have been elected and qualified.

[L. 1899 P. 749; Am. Elec. Dec. 12, 1906; Am. Elec. May 19, 1922]

The Mayor—Term of Office

SECTION 7. The Mayor shall be elected for a term of four years, and shall hold office until his successor is elected and qualified.

[L. 1899 P. 749; Am. Elec. May 19, 1922]

(SECTION 8. Officers to be elected. L. 1899 P. 749; Am. Elec. Dec. 12, 1906; Repealed Elec. May 19, 1922)

Qualifications of Elective Officers

SECTION 9. No person is eligible to any elective office of this municipal corporation, who, at the time of his election is not an elector according to the laws of this State, and who has not resided in the City of Astoria for the six months next preceding the election, and who is not a bona fide tax payer in the City.

[L. 1899 P. 750; Am. Elec. May 19, 1922]

Councilman Must Be a Tax Payer

SECTION 10. In addition to the qualifications prescribed in Section 9, to be eligible to the office of Councilman a person must be a resident of the ward from which he is elected, and a bona fide tax payer in the City. [L. 1899 P. 750]

(Note:—See Sec. 5, Par. 2)

CHAPTER III. OF ELECTIONS

Primary and General Elections—When Held

SECTION 11. There shall be primary and general elections in the City of Astoria at the times and in the manner provided by the laws of the State of Oregon.

[L. 1899 P. 750; Am. Elec. Dec. 12, 1906; Am. Elec. May 19, 1922]

All Officers to be Elected at General Election

SECTION 12. All officers required to be elected by this Charter shall be elected by the qualified voters of the city or ward, as the case may be, at the general election to be held the first Tuesday after

CITY OF ASTORIA

Sections 13-19.

the first Monday in November, 1922, and thereafter at the general election next preceding the expiration of the term of the then incumbent of the office.

[L. 1899 P. 750; Am. Elec. Dec. 12, 1906; Am. Elec. May 19, 1922]

Time and Manner of Holding Elections

SECTION 13. All general and nominating elections shall be held at the time, and in the manner provided by the laws of the State of Oregon governing elections. The Common Council may provide by ordinance for the holding of special elections.

[L. 1899 P. 750; Am. Elec. May 19, 1922]

(SECTION 14. Notice of Election. L. 1899 P. 750; Repeal Elec. May 19, 1922)

Residence and Registration

SECTION 15. No person is qualified to vote at any election who is not an elector under the laws of the State of Oregon, and who has not resided in the City of Astoria for the six months next preceding such election and in the ward in which he offers to vote for the ten days next preceding such election. The laws of the State of Oregon governing registration of voters shall apply to and govern all persons voting, or offering to vote at all city elections, and the poll books as furnished by the County Clerk at such elections shall be taken and deemed as the poll books of the city.

[L. 1899 P. 750; Am. Spl. L. 1901 P. 783 Sec. 1; Am. Elec. Dec. 12, 1906; Am. Elec. May 19, 1922]

Mayor and Commissioners—By Whom Elected

SECTION 16. The Mayor shall be elected by the qualified voters of the city, and the Commissioners by the qualified voters of the wards from which they are elected.

[L. 1899 P. 750; Am. Elec. May 19, 1922]

(SECTION 17. Opening and closing of polls. L. 1899 P. 751; Repealed Elec. May 19, 1922)

(SECTION 18. Qualifications of Judges and Clerks. L. 1899 P. 751; Repealed Elec. May 19, 1922)

Abstract of Votes

SECTION 19. That within thirty (30) days after each election the City Auditor of Astoria shall obtain from the County Clerk of Clatsop County, a certified abstract of all the votes cast at such election for all municipal officers and all measures submitted to the people and forthwith file the same.

[L. 1899 P. 751; Am. Elec. May 19, 1922]

(SECTION 20. Statement of canvas of vote. L. 1899 P. 751; Repealed Elec. May 19, 1922)

Certificate of Election

SECTION 21. Immediately after the filing of the abstract of votes issued by the County Clerk, the City Auditor shall make and sign a certificate of election for each person elected, and deliver or mail the same to each of such persons.

[L. 1899 P. 751; Am. Elec. May 19, 1922]

Common Council Judge of Election of Members

SECTION 22. A certificate of election is primary evidence of the facts therein stated, but the common council is the final judge of the qualifications and election of its members, and in case of a contest between two persons claiming to be elected thereto must determine the same. [L. 1899 P. 751]

Contested Election For Mayor

SECTION 23. A contested election for mayor must be determined according to the laws of the state of Oregon regulating proceedings in contested elections in the case of county officers. [L. 1899 P. 751]

Term of Office—Oath of Office

SECTION 24. The term of office of every person elected under this Act shall commence on the first day of January after his election, and terminate when his successor is elected and qualified, and each person so elected must qualify therefor on or before 10 o'clock A. M. of each day by taking and filing the oath of office, or he shall be deemed to have declined, and the office considered vacant.

[L. 1899 P. 751; Am. Elec. May 19, 1922]

Official Oath

SECTION 25. All officers elected or appointed under this act before entering upon the duties of their office must make and file with the auditor and police judge an oath of office to the following effect, viz: "I, A. B., do solemnly swear (or affirm) that I will support the constitution of the United States and of this state, and that I will, to the best of my ability, faithfully perform the duties of the office of during my continuance in office, so help me, God." If the person affirms, instead of the last clause there must be added, "And this I promise under the pains and penalties of perjury." [L. 1899 P. 752]

State Laws Govern Elections

SECTION 26. All laws of this state regulating and governing general elections and proceedings and matters incident thereto shall apply to and govern elections under this act, except as herein otherwise provided. [L. 1899 P. 752]

CHAPTER IV.
OF VACANCIES IN OFFICE
When Office Deemed Vacant—How Filled

SECTION 27. That an elective office must also be deemed vacant upon the death or resignation of the incumbent, or in case the incumbent shall cease to be a resident of the City of Astoria, or shall be absent from the City of Astoria for a period of thirty consecutive days without first obtaining permission of the Common Council. The office of Commissioner shall be deemed vacant whenever any incumbent shall cease to be a resident of the ward which he represents; or shall fail to attend three successive regular meetings of the Council, unless absent on leave of the Council, first obtained.

In case of any such vacancy, the remaining members of the Council are authorized by resolution to declare such vacancy to exist, and they may then appoint a successor to fill such vacancy, who shall hold office for the term for which his predecessor was elected.

[L. 1899 P. 752; Am. Elec. Dec. 12, 1906; Am. Elec. May 19, 1922]

Vacancies, in Office Filled by Appointment

SECTION 28. A vacancy in any office caused by a failure of a person elected to qualify therefor, as prescribed in Section 24, or made by or consequent upon a judgment of any Court, or in any of the cases specified in Section 27, must be filled by appointment by a majority of the remaining members of the Common Council, to continue in office for the remainder of the unexpired term.

[L. 1899 P. 752; Am. Elec. Dec. 12, 1906]

Appointee Must Qualify Within Five Days

SECTION 29. Any officer appointed to fill a vacancy must within five days from the date of such appointment qualify therefor, as in the case of an officer elected, or he shall be deemed to have declined, and the office considered vacant. [L. 1899 P. 752]

CHAPTER V.

OF THE ORGANIZATION AND POWERS OF THE COUNCIL

Meetings of the Council

SECTION 30. The Council must provide for the time and place for its regular meetings, at any of which it may adjourn to the next succeeding regular meeting, or to some specified time prior thereto, and it may be convened by the Mayor at any time upon not less than one day's notice to each member of the Council at that time present in the city; provided, that the Council must have at least two regular meetings each calendar month.

[L. 1899 P. 753; Am. Elec. May 19, 1922]

Legislation—Quorum

SECTION 31. At any meeting of the Council three members shall constitute a quorum, but a less number may meet and adjourn from time to time and may compel the attendance of absent members.

Manner of Voting

(a) The "Ayes" and "Nays" shall be taken on the passage of all ordinances and entered upon the Journal of the proceedings of the Council. Each member when present must vote, and every action of the Council, excepting a motion to adjourn, or action to compel the attendance of absent members, shall require the affirmative vote of three members.

Ordinance to Contain One General Subject

(b) No ordinance, except one making an appropriation, shall contain more than one general subject, and matters properly connected therewith; ordinances making appropriations shall be confined to the subject of appropriations, and matters properly connected therewith.

Number of Public Readings of Ordinances

(c) Every ordinance, other than emergency ordinances, shall have three public readings, not more than two of which shall be at the same session. At least one week shall elapse between the introduction and final passage of any ordinance, and no ordinance shall be amended within one week of its final passage, except in case of an emergency ordinance. An emergency ordinance may be enacted upon the day of its introduction, providing it shall contain the statement that an emergency exists, and specify the reason or reasons constituting such emergency. The unanimous vote of all members of the Council present, and not less than four members shall be required to pass an emergency ordinance.

Time of Taking Effect of Ordinances

(d) Ordinances making appropriations, annual tax levy, local and public improvements and assessments therefor, and emergency ordinances, shall take effect immediately upon their passage. All other ordinances enacted by the Council shall take effect thirty days after their passage unless a later date is fixed therein, in which event they shall take effect at such later date, subject to the referendum and subject to the provisions of this section.

Initiative and Referendum Measures Take Effect When

(e) Ordinances or other measures adopted by the electors of this City, under the initiative, or approved by the electors of the city when submitted under the referendum, shall take effect at the time fixed therein; but if no such time is designated therein, at the date of the adoption.

Amendments and Repeals of Ordinances

(f) Amendments or repeals of ordinances or sections thereof shall also be by ordinance.

Objection Against Ordinance May Be Made

(g) At any time within ten days after the passage of any ordinance which shall not take effect immediately, any member of the Council may file, in writing, objection to said ordinance, which shall be considered and voted upon by the Council at its next regular meeting. If a majority shall vote to sustain such objection the ordinance shall be deemed repealed, unless again passed in the same manner as all new ordinances. If a majority shall vote not to sustain such objection, the same shall have no effect upon the ordinance. The objection together with the vote thereon shall be preserved on the record.

Signing of Ordinance by Mayor

(h) An ordinance when passed by the Council shall be signed by the Mayor, or in his absence by the Mayor pro tempore, and attested by the City Auditor, and shall be filed and preserved and a record thereof made in a book kept for that purpose. In case the Mayor or Mayor pro tempore shall fail or refuse to sign any ordinance, the same shall nevertheless become a law.

[L. 1899 P. 753; Am. Elec. May 19, 1922]

Adoption of Rules

SECTION 32. The Council may adopt rules for the government of its members and proceedings, and on the call of any two of its members must cause the "Ayes" and "Nays" to be taken and entered in its Journal on any question before it. Its deliberations and proceedings must be public. [L. 1899 P. 753; Am. Elec. May 19, 1922]

Council May Punish or Expel Members

SECTION 33. The Council may punish any member for disorderly or improper conduct at any meeting, or for refusing or neglecting to attend any regular meeting without sufficient excuse therefor, and may, by a three-fifths (3-5) vote, expel any member.

[L. 1899 P. 753; Am. Elec. May 19, 1922]

Duties of Mayor

SECTION 34. The Mayor shall preside at all meetings of the Council and perform such other duties as may be imposed by the Council. He shall have no power to veto, but shall have the same power as a Commissioner to introduce and vote upon all matters coming before the Council. If the Mayor shall be unable to perform the duties of his office in consequence of sickness or temporary absence from his office, he may designate a member of the City Council to act in his stead as Mayor pro tempore, which designation shall be in writing and be immediately filed with the City Auditor. If the Mayor fails to appoint a Mayor pro tempore, the City Council shall have the power to elect any member thereof Mayor pro tempore. The Mayor pro tempore shall be vested with all the duties and powers of the Mayor during the continuance of such absence or inability.

In addition to the above the Mayor shall possess such other powers and perform such other duties as are now conferred or imposed by law upon the Mayor of the City, not inconsistent with the provisions of this Act.

The Mayor shall have charge of all city functions, celebrations and receptions and courtesies. He shall sign all contracts, of every kind and nature to which the City is a party, and such other instruments as he may be directed by resolution or ordinance of the Council.

The Mayor shall be recognized as the official head and representative of the City, and by the state and national authorities for military purposes in times of danger or stress. In time of public danger or calamity he shall be, and is hereby vested with summary and plenary powers to take command of the city and enforce the law. In such case the Mayor may rule by proclamation and may be empowered by the Council to give all necessary aid, and may pledge the faith and credit of the City within such amount as may be approved by the Council.

[L. 1899 P. 753; Am. Elec. May 19, 1922]

Biennial Council Meeting

SECTION 35. On the first day of January, at the hour of 10 o'clock A. M., next following any general election, there must be a regular meeting of the council and such meeting is appointed by this Charter, and no notice thereof, or call therefor is necessary. In the

event the 1st day of January falls on Sunday, then such meeting to be held on the day next following.

[L. 1899 P. 754; Am. Elec. May 19, 1922]

Majority of Council

SECTION 36. A majority of the whole number of the council as then provided by law is a majority of the council or the members thereof, within the meaning of this act; **provided**, in case a vacancy or vacancies exist in such council a majority of the remaining members shall be a sufficient majority to fill such vacancy or vacancies. The concurrence of a majority of a quorum **is** a sufficient majority to determine any question or matter other than the final passage of an ordinance and the appointment or removal of an officer.

[L. 1899 P. 754]

Style of Ordinances

SECTION 37. The style of every ordinance shall be: "The city of Astoria does ordain as follows."

[L. 1899 P. 754]

Specific Powers of Council

SECTION 38. The Council has power and authority within the City of Astoria:—

1.

To Levy Taxes For General Purposes

To assess levy and collect taxes for general municipal purposes, not exceeding two per centum upon all property both real and personal, within the City limits, which is taxable by law for state and County purposes. [As amended at Elec. Dec. 12, 1906]

(Note: See Sec. 131)

2.

To Levy Special Tax

To levy and collect a special tax of not exceeding one per centum upon all the property assessed by authority of the first subdivision of this section, for any specific object within the authority of the municipal corporation, including the payment of any existing debt, or for municipal improvements, but the ordinance providing therefor must specify the object therefor and the amount thereof.

(Note: See Sec. 131)

3.

To License Trades and Occupations

To license, tax and regulate auctioneers, hotel runners, taverns, boardinghouses, hawkers, peddlers, pawnbrokers, solicitors, book agents, real estate and insurance agents, brokers, barbers, bakers, dealers in general merchandise, clothing, boots and shoes, groceries, dry goods, meat markets, hardware, tinware, crockery, glassware, millinery, dealers in cigars and tobacco, fruit and confectionery,

lawyers, doctors, furniture stores, dentists, book and stationery stores, commission merchants, tailoring establishments, jewelry stores, and all offensive trades and occupations, and to define what shall constitute the same.

4.

To License Vehicles

To license, tax and regulate and provide by Ordinance for licensing, taxing and regulating hacks, cabs, hackneys, carriages, wagons, carts, drays, delivery wagons, express wagons, whether run by horses, steam, gasoline or any motive power whatsoever, and all other vehicles used for the transportation of passengers, freight, goods, wares, merchandise, lumber, wood, or any other commodities hauled or transported over the streets, alleys and public places of the City of Astoria, whether the same be transported, hauled or delivered for hire or not, to fix the rates thereof, and provide for the collection of all licenses and taxes, and provide penalties for a violation thereof.
[As amended at Elec. Dec. 9, 1914]

5.

To License Saloons and Prohibit Gambling

To license, tax, regulate, restrain, restrict and prohibit bar-rooms and drinking shops, and all places where liquors are sold; and to prohibit gambling and suppress gambling houses, and nickel in the slot machines, and all places where gambling is carried on. No license shall be issued or granted by the Common Council at the meeting when the application therefor is received, but all such applications shall lay over at least one meeting of said Council. If any person or persons holding a license for and maintaining a bar-room or drinking shop in the city shall be convicted either under the state law, or a city ordinance, of maintaining a nuisance, or of keeping a disorderly house on account of the manner in which said bar-room or drinking shop is conducted or carried on, or willfully selling liquors to minors, or allowing minors to loiter in or about such bar-room or drinking shop, or for having committed a felony, said license shall be deemed forfeited, and thereafter no license for a bar-room or drinking shop shall be issued or granted to any such person or persons. No license for a bar-room or drinking shop shall be issued outside of the following described limits: Commencing at a point where Fifth street terminates at the Columbia river, running thence South to a point 100 feet South of and parallel with Commercial street; thence East to 12th Street; thence South to the North line of Duane Street; thence East 100 feet; thence North to a point 100 feet South of the South line of Commercial street; thence East on said line to 23rd street; thence North to the Columbia river; thence West to the place of beginning. Providing that until the population of the City of Astoria shall reach 20,000 inhabitants as determined by the last preceding

state or federal census, the number of saloons shall not exceed Fifty, and thereafter only one additional saloon above said number shall be allowed for each 1,000 inhabitants, over and above 20,000. That licenses shall be transferable or assignable only by the consent of the Common Council and under such regulations and restrictions as shall be provided by Ordinance. The holders of licenses at the time this act takes effect, shall be entitled to the preference right in renewing said license from year to year, provided it does not exceed said number of fifty. The City of Astoria shall have full power and authority to issue and grant licenses, provide rules and regulations for the conduct of saloons and the sale of intoxicating liquors, any law to the contrary notwithstanding. Provided that no license shall be granted for a less sum than \$500.00 per annum.

[Am. Elec. Dec. 12, 1906] [As amended at Elec. Dec. 14, 1910]

6.

To License Wharfingers, Theatres, etc.—Suppress Gambling etc.

To license and tax wharfingers; to license, tax and regulate junk dealers and dealers in second-hand merchandise; to license, tax and regulate theatres and other exhibitions, merry-go-rounds, shows, public amusements, steamboat runners, billiard tables, and other tables where balls and cues are used, shooting galleries and bowling alleys, and to suppress bawdy houses, gaming and gambling houses, places kept for opium smoking, and to punish inmates of bawdy houses or houses of ill fame, and to define what shall constitute the same, and to punish keepers of places kept for smoking opium, and opium smokers.

7.

To Regulate and Prevent Contagious Diseases

To make regulations to prevent the introduction of contagious diseases in [into] the city; to remove all persons afflicted with such diseases therefrom to suitable hospitals provided by the city for that purpose; to secure the protection of persons and property therein, and to provide for the health and cleanliness, ornament, peace and good order of the City.

8.

To Prevent and Punish Trespass

To prevent and punish trespass upon real or personal property.

9.

To Provide Water For City

To provide the city with good and wholesome water, and for the erection and construction of such water-works and reservoirs within or without the limits of the city as may be necessary or convenient therefor; and to grant to any private person or corporation a fran-

chise for the erection or construction of water works within the limits of the city, and all rights and appurtenances thereto, including the power to use the streets and public highways for the purpose of laying pipes etc. Such franchises shall be used and exercised under such rules and regulations and restrictions as the common council shall from time to time prescribe.

10.

To Provide City With Light

To provide for lighting the streets and furnishing the city with gas, electric or other lights, and for the erection and construction of such works as may be necessary or convenient therefor and to grant to any person or corporation a franchise or permission for the erection and construction of gas works and electric light works within the limits of the city with all the rights and appurtenances thereto, including the power of using the streets and public highways for the purpose of laying down pipes, erecting poles and hanging wires, etc.

Such franchise shall be used and exercised under such rules, regulations and restrictions as the common council shall from time to time prescribe.

[As amended Elec. Dec. 12, 1906]

11.

To Punish Vagrants

To provide for the restraint, support, punishment and employment of vagrants and paupers, and to declare by ordinance what shall constitute a vagrant.

12.

To Prevent and Remove Nuisances

To prevent and remove nuisances, and to declare by general rules what shall constitute the same, and to make the expense of abating a nuisance a lien upon the property where such nuisance exists; to fill up or drain any lots or blocks where stagnant water stands, and to make the cost thereof a lien upon the property, but in such case the same must be reported to the council and the necessity thereof declared by ordinance and thereupon the work must be let to the lowest responsible bidder, and the cost thereof be collected in like manner as street improvements.

13.

To Prevent the erection of Wooden Building—Regulate Buildings

To prohibit the erection or repair of wooden buildings within the fire limits, and to restrict and limit the height of all buildings: to provide for and determine the number and size of entrances and exits from all public halls, churches and all other public buildings used for public gatherings, and the mode for hanging doors thereat.

14.

To Provide For Preventing Fires

To provide for the prevention and extinguishment of fires, and for the preservation of property endangered thereby, and for the appointment of officers required for such purpose.

15.

To Regulate Compensation of Policemen

To regulate and fix the compensation of the chief of police and policemen, the keeper of the city prison and the house of correction.

16.

Obstructions to Streets—Cleaning—Repairing

To provide for the prevention and removal of all obstructions from the streets, cross and sidewalks; for the cleaning and repairing of the same, and to pass necessary ordinances making the failure to comply with the provisions of this subdivision a misdemeanor, and to provide for the punishment of the same.

17.

To Prevent Obstructions in Columbia River

To provide for the prevention and removal of obstructions in the Columbia River within the limits of the city, and prevent, restrain and punish the throwing of ballast, sawdust, ashes or other materials therein.

18.

To Regulate the Building of Wharves

To regulate the building of wharves along the river front and the driving of piles in the Columbia river within the limits of the City, and to establish a wharf line beyond which wharves shall not be built.

19.

To Provide for Market Place—To Regulate Slaughter Houses

To provide for the establishment of market houses and places, and to regulate the location and management of market houses and slaughter houses.

20.

To Provide for Erection of City Hall

To provide for the erection of a city hall, jail, house of correction and workhouse, and the government and management of the same.

21.

To Regulate Storage of Gunpowder, Etc.

To regulate the storage and sale of gunpowder, dynamite, nitro-

glycerine, oil or combustible material, and to prevent by all possible means danger or risk of injury or damage thereby by fire, from carelessness, negligence or otherwise; to regulate the storage of tar, pitch, resin, lacquer and the use of candles, lamps and other lights in stores, shops, stables and other places; to suppress remove and secure any fire place, stove, chimney, oven or boiler, or other apparatus which may be dangerous in causing fires.

22.

To Prevent and Punish Disorderly Conduct

To prevent, restrain and punish intoxication, fighting and quarreling, or any riot, noise or disturbance, or disorderly assemblage, or any unlawful or indecent practice in any street, house or place in the city.

23.

To Prevent Carrying Concealed Weapons

To prohibit the carrying of deadly weapons in a concealed manner, and to provide for the punishment thereof, and to regulate, prohibit and punish the using of guns, pistols, firearms, firecrackers, bombs and detonating works of all descriptions.

24.

To Prevent and Punish Riots

To prevent, restrain, punish and disperse any riot or riotous assemblage, or persons taking part therein.

25.

To Regulate and License Laundries

To control, regulate and license washhouses and public laundries, and to provide for their exclusion from the city limits or any part thereof.

26.

To Prevent Animals Running at Large

To prevent any and all domestic animals from running at large within the city limits or any portion thereof.

27.

To Prohibit Begging or Exhibiting Cripples

To prohibit all persons from begging or soliciting alms, or exhibiting any cripple or deformed person on any street or in any public place.

28.

To Compel Connection With Sewer

To compel all persons erecting or maintaining privies, or cesspools within three hundred feet of any street in which a sewer has or may

be constructed, to connect with the same; PROVIDED, that where blocks are more than six hundred feet in width, this authority shall extend to the center of the block.

29.**To Regulate Fees and Compensation of Officers**

To establish and regulate the fees and compensation of all the officers of the City of Astoria, except when otherwise provided, and the salary of no elective or appointive officer shall be raised or lowered during his term of office. [As amended at Elec. Dec. 14, 1910]

30.**To Provide Punishment For Violation of Ordinance**

To provide for the punishment of a violation of any ordinance of the city, by fine or imprisonment not exceeding \$300.00 or one hundred days in the city jail, or both, or by forfeiture or penalty not exceeding \$500.00, and for working any prisoner or prisoners on the street or public works, and to attach to them ball and chain or such other attachments as may be deemed necessary for their safe keeping during the term thereof.

31.**To Provide For Collecting and Disbursing Money**

To provide for the collecting and disbursing of all money to which the city is or may become entitled, or which may be assessed, levied or authorized to be collected for city purposes within said city.

32.**To Borrow Money**

To borrow money on the faith of the city, or loan the credit thereof, or both, for purely municipal purposes, and to issue or dispose of negotiable or other municipal bonds, with interest coupons attached.

33.**To Contract Debts—Officers Not To Be Interested In Contracts**

To appropriate money to pay the debts, liabilities, and expenditures of the city, or any part or item thereof, from any fund applicable thereto; PROVIDED, that no bills shall be contracted by any person or officer of the city, without first sending to the Common Council a written requisition thereof, stating the items needed with the cost thereof and, if the Council deem the supplies necessary, they shall authorize the proper committee to purchase the same; PROVIDED, that in case of an emergency the committee on Fire and Water, and Streets and Public Ways, may incur indebtedness not to exceed \$100.00; PROVIDED FURTHER, that neither the Mayor, or [nor] any member of the Common Council, nor any officer of the city of

Astoria shall either directly or indirectly enter into a contract with the city nor furnish supplies or provisions to the City. If the Mayor or any member of the Common Council or any officer of the city shall violate the provisions of the City Charter his office will be deemed vacant. [As amended at Elec. Dec. 12, 1906]

(Note:—Subd. 33 is, in part, impliedly repealed by Sec. 44, Subd. 7 and 8)

34.

To Provide For Survey of Streets and Blocks

To provide for a survey of the blocks and streets of the city, and for making and establishing the boundary lines of such blocks and streets.

35.

**To Lay Out and Construct Streets and Landings—No Liability
Account Sliding Ground**

To lay out and construct streets above and below ordinary low water mark in the Columbia river, and to authorize the building and construction of wharves and landings at the foot of streets terminating at the water front. To lay out, open, widen and improve any and all streets within the corporate limits of the city as now provided in the Charter of the City of Astoria. The City of Astoria shall not be liable for any damage caused in opening, constructing or improving any of the streets within the city from sliding ground or other causes.

[As amended at Elec. Dec. 14, 1910]

36.

To Erect Public Wharves

To erect, repair and regulate public wharves and docks, and to fix the rate of wharfage and dockage thereof, and to provide for the collection of the same.

37.

To Grant Franchises—Regulate Poles

To grant franchises to any person or corporation; to regulate or prohibit the erection and maintenance of telegraph, electric light, telephone and other poles or wires used within the city upon and over streets, alleys and public parks and public grounds of the city, and in, over and upon any lands owned by the city or under its control, whether they be within the limits of the city or without.

38.

To Purchase Real Estate

To purchase, take, and hold real estate when sold for taxes or for any improvement ordered by the Common Council, and to sell and dispose of the same.

39.

To Punish Assault and Battery

To provide for the punishment of assault or assault and battery when committed within the city limits.

40.

To Condemn Land

To locate and construct any ditch, canal or pipe for the conduct of water, and any drain, sewer or culvert it may deem necessary or convenient, and for such purpose it shall have the right to enter upon any land between the termini of such ditch, canal, pipe, drain, sewer or culvert, [for] the purpose of examining, locating and surveying the line of such ditch, canal, pipe, drain, sewer or culvert, (for) doing no unnecessary damage thereby, and to appropriate so much of said land as may be necessary for the construction of the same, in like manner as is provided in Chapter VII, Miscellaneous Laws of Oregon, for the appropriation of lands or right of way by corporations named therein and to appropriate and divert from its natural course or channel, for the purpose of draining or flushing any sewer, drain or culvert, any spring or stream of water.

(Note:—"Chapter VII," above, probably refers to Chapter VII, Deady and Lane compilation which appears in Olson's Laws, 1920, as Chapter I of Title XL.)

41.

To Appropriate Moneys For Public Library

To appropriate, for the maintenance of a public library in said city such sums of money as the council may deem proper, not exceeding \$75 in any one month and to exercise such power and authority as may be given to the common council by this Act.

[As amended at Elec. Dec. 12, 1906]

42.

To Maintain a Fire Department

To make regulations for the prevention of accident by fire; to organize, establish, and maintain a fire department, consisting of One (1) Chief Engineer, and two (2) platoons, a day and a night platoon. The day platoon to be on duty no longer than ten (10) hours in any one day; the night platoon to be on duty no longer than fourteen (14) hours, save and except in cases of emergency, and in such cases of emergencies, all members of the Fire Department of the City of Astoria, whether members of the day or night platoon shall be on duty as long as ordered so to remain by the Chief Engineer of the Fire Department. To appoint three competent persons as fire commissioners, and to make and ordain rules for the government, of the

fire department; to provide engines and other apparatus for the department; to provide for the pay and compensation of all firemen.
[As amended at Elec. May 21, 1920]

43.

To Purchase or Condemn Land for City purposes

To purchase or condemn and enter upon and take lands within or without the city limits for public squares, streets, parks, commons, cemeteries, hospital grounds, workhouses or houses of correction, or any other proper or legitimate municipal purposes, and to enclose the same, improve and ornament and erect suitable buildings thereon. The city shall have entire control of all such buildings, and all lands purchased or condemned under the provisions of this section, and all streets, highways, squares and other public grounds within the limits established or appropriated to public use by authority of law, or which have been or may hereafter be dedicated to public use by any person or persons; and has power, in case such lands are deemed insufficient or unsuitable for the purpose intended, to dispose of, and convey the same; and conveyances of such property, executed in such manner as may be prescribed by ordinance, shall vest in the purchaser all right, title and interest of the city therein.

44.

To Regulate Naming Streets and Numbering Buildings

To provide for and regulate the naming of all streets of the city and changing the present names, and to provide for the numbering of houses, stores and other buildings in the city limits.

45.

To Regulate Awnings and Signs

To regulate and prohibit the building of awnings, signs, sign posts, and to regulate and prohibit the exhibition and hanging of banners and placards in or across the streets of the city.

46.

To Grant Franchises for Street Railways

To authorize, or to prohibit the location of any road, railroad or street railway [in any street], alley or public place in the City [;] to provide for the alteration, change of grade or removal of any such road, railroad or railway [;] to regulate the moving and operating of trains, cars or locomotives within the corporate limits of the city, [;] to fix the rates of fares to be charged thereon and to prescribe the terms and conditions upon which any such railroad or street railway shall be located, constructed and operated. PROVIDED, that no franchise shall be granted to any road, railroad or street-railway without the ordinance making said grant shall contain a

provision that the person, firm, company or corporation to whom said franchise is granted, his, their, or its heirs, executors, administrators, successors or assigns, shall improve and keep in repair and shall pay for the improvement and keeping in repair, according to the Charter and Ordinances of the City, the street or grounds over which said track or tracks are laid, between the rails of said tracks and for a distance of one foot outside of said rails, and where two or more tracks are situated close together either for switches, or otherwise, such improvements and repairs shall be made by the person, company or corporation operating said road, railway or street-railway; and all such improvements and repairs shall conform to the requirements of the Charter and Ordinances of the City. PROVIDED FURTHER, that no franchise shall be granted to any person, firm or corporation unless the same contains a provision for a revenue to the city from the person, company or corporation holding such franchises, and no such franchise shall be granted for a longer period than thirty years. Any franchise granted in violation of the provisions of this subdivision, or which shall not contain the provisions herein provided for, shall be null and void. AND PROVIDED FURTHER, that the City of Astoria may reserve the right to acquire or purchase any street-railway line, and any power plant connected therewith, for which a franchise may be granted, at any time after ten years from the date of granting the same, when authorized so to do by a majority vote of the electors of the city of Astoria, at any general election held in the City of Astoria, at the appraised value thereof; the City appointing one Appraiser, the holder of the franchise one appraiser, and in case the two appraisers so appointed, are unable to agree upon the valuation, the two appraisers so appointed shall select a third appraiser and the decision of two of the three appraisers made in writing and filed with the Council, shall be final in fixing the valuation of such railway and any power plant used in connection therewith. [As amended at Elec. Dec. 12, 1906]

47.

To Provide for Water-works, Gas Works and Electric Light Plants

To provide for erecting, purchasing, appropriating or otherwise acquiring waterworks, gas works or electric light plants within or without the corporate limits of the city, to supply said city and its inhabitants with water and light, or to authorize the construction of the same by others.

48.

To Establish Fire Limits

To establish fire limits within certain defined limits of the city.

49.

To Regulate Parades

To regulate all parades and processions, and to determine what parades and processions upon the streets shall be unlawful; to declare the same a misdemeanor, and to provide for the punishment thereof.

50.

To License Dogs

To license, tax, regulate and restrain the keeping of dogs within the city limits, and to authorize the distraining, impounding and sale of the same for the penalty incurred and costs of proceedings, or to authorize their destruction.

51.

To Provide and Regulate Cemeteries

To provide cemeteries and to regulate the burial of the dead, and shall have power to establish cemeteries or burial grounds within or without the city limits, and have authority and jurisdiction over the same necessary to safety, preservation, regulation and ornamentation of the same. The power and authority over said cemeteries or burial grounds shall be exercised by a commission, to be known and designated as the Cemetery Commission, consisting of five members who shall be appointed by the Mayor and confirmed by the Common Council, and who shall be substantial tax-payers and bona fide residents of the City of Astoria. Upon organization of the said commission, two of the members thereof shall be appointed for a term of two years and three for a term of four years, from and after the first regular meeting of the Common Council in the year 1911; and thereafter their successors shall be appointed for a term of four years, and such commissioners shall hold office until their successors are appointed and qualified. Each commissioner shall qualify by taking the oath of office commonly required of other officers of said city, and shall serve without compensation direct or indirect, except that their actual traveling and other small, necessary expenses may be allowed and paid by said commission upon presentation of the proper vouchers therefor.

Said Cemetery Commission shall have power and is hereby authorized and empowered to levy a tax of not exceeding one half ($\frac{1}{2}$) of a mill on each dollar of taxable property in the city of Astoria, at the time and in the manner as other taxes of the said city are levied. The funds derived from the levy and collection of the said tax shall be placed in the hands and control of the said Cemetery Commission, and shall be used exclusively for cemetery purposes and in maintaining, repairing, beautifying, equipping and ornamenting such cemeteries or burial grounds, and for the building and maintenance of the proper pumping plants or other devices for the purpose of irrigating said

cemeteries or burial grounds, and other needful or convenient appliances or devices for use in said cemeteries and for the care and preservation thereof.

The Cemetery Commission shall organize immediately after appointment and thereafter each second year at the time of the appointment of its new members, and shall select a president from its own number. The President shall preside at all meetings when present and shall vote on all questions. In the absence of the President a chairman shall be selected to preside, upon receiving a majority vote of the members present. The City Auditor and Police Judge shall be the Clerk of the Commission. The City Treasurer shall be the Treasurer of the Commission. The Treasurer shall be the custodian of all funds and shall pay the same out only upon warrants properly signed by the President or Acting Chairman and attested by the Clerk.

It shall be the duty of the said commission to make and keep exact and thorough records of all matters pertaining to such cemeteries or burial grounds, and [the commission] shall record in a plain and systematic manner the ownership of all graves or other plats of ground in such cemeteries, transfers of bodies from one grave to another, all burials, [and] exhumations; and shall record in the same manner the age, sex, color, nativity and residence, when obtainable, of all persons buried in any of such cemeteries; and shall make and keep appropriate records separate from the others of all burials, transfers or exhumations in the Pauper or Potter's Field, with the same attendant facts. Such present records of all burials and other facts pertaining thereto that may be secured shall be carefully preserved.

The Cemetery Commission shall meet quarterly, and shall meet oftener whenever necessary.

Said Cemetery Commission shall have authority through its President or Acting Chairman and Clerk to sell all Lots, Blocks and Plats in said cemeteries for burial purposes, and execute and deliver good and sufficient Deeds of Conveyance of the customary title thereof in the name of the City of Astoria; but before the President or Acting Chairman, and Clerk shall be privileged to sell or otherwise dispose of any of such Lots, Blocks or Plats, the Commission shall carefully appraise and adopt and make known the values placed thereon; and it shall be the duty of the Commission to make such appraisements as often as may be necessary from time to time. It shall also make and publish rules and regulations governing burials, structures permitted in said cemeteries, and on all other proper matters, and shall also make and adopt by-laws for its own governance and procedure.

Said Commission shall make an annual report to the Common Council of all funds levied by it in taxation, and of all funds secured

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by taxes from the sale of Lots and Blocks or otherwise, the number of Lots and Blocks sold and of all expenditures and disbursements, in detail. Said Commission may make arrangements with the County of Clatsop or other political division for the burial of unknown or pauper dead.

The City Auditor and Police Judge, the City Treasurer, the City Attorney and the City Engineer shall be the Clerk, the Treasurer, the Attorney, and the Engineer respectively for the commission, and they shall render such services as they may be called upon, for, from time to time, without additional compensation other than their regular salaries as such City Auditor and Police Judge, City Treasurer, City Attorney and City Engineer. [As amended at Elec. Dec. 14, 1910]

(Note: Cemetery Commission succeeded by Common Council—See Sec. 205)

52.

To Regulate Street Traffic

To regulate the use of streets, roads and highways and public places for foot passengers, animals and vehicles; to protect the public from injury from runaways, by punishing persons who negligently leave horses and carriages in the streets without secure fastenings; to prescribe the width of tires of all trucks, drays carts and other vehicles, and the weight to be carried thereon, for the preservation of streets, roadways and highways.

53.

To Regulate Use of Streets—Limit of Power

To regulate the use of streets and sidewalks, and prevent the extension of buildings and house fronts within the street line; but they shall have no power to authorize the placing or continuing of any encroachment or obstruction upon any street or sidewalk, except for the temporary use or occupation thereof during the erection or repair of a building upon the adjacent property or the display of goods by the occupants of adjoining buildings.

54.

To Regulate the Opening of Street Surfaces

To regulate the opening of street surfaces, the laying of gas and water mains, the building and repairing of sewers and the erection of gas and other lights.

55.

To Regulate Noises, Advertising, Traffic, Signs, Poles, etc. in Streets
—To Establish Police Stations—Street Cleaning and
Sprinkling—Roaming Streets

To regulate and prevent public criers and advertising, noises, steam whistles, the ringing of bells in the streets, to control and limit

traffic on the streets, avenues and public places; to regulate and prohibit the use of streets and sidewalks for the use of signs, sign posts, awnings, awning posts, telegraph, telephone and electric light posts, and other purposes than travel and traffic; to establish from time to time such police stations as may be necessary; to provide for the sprinkling of streets and cleaning of the same, and to punish those who refuse so to do; and to prohibit persons from roaming the streets at unreasonable hours.

56.

**To Prevent Erection of Dangerous Buildings—Repair of
Dangerous Streets**

To prevent the erection of buildings within the city limits which shall be dangerous to passers-by or to adjacent property; and in case any building or any public street shall become dangerous to passers-by the Council shall have the power to cause the same to be removed or made safe at the expense of the property, and said expense shall be collected in the same manner as for street improvements.

57.

To License and Regulate Trades and Occupations

To license and regulate all such callings, trades and employments not herein specially provided for as in the judgment of the council the public good may require to be licensed and regulated, and as are not prohibited by law. [L. 1899 P. 754; Am. Elec. Dec. 12, 1906; Am. Elec. Dec. 14, 1910; Am. Elec. Dec. 9, 1914; Am. Elec. May 21, 1920]

(Note: Regulation must be reasonable: Chan Sing v. Astoria 79 Or. 411, 155 Pac. 378)

Power to be Exercised by Ordinance

SECTION 39. The power and authority given to the council by Section 38 can only be exercised or enforced by ordinance, unless otherwise provided; and a majority of the council may pass any ordinance or make any by-law, not repugnant to the laws of the United States or of this state, necessary or convenient for carrying such power and authority or any part thereof into effect, and as may be necessary to secure the peace and good order of the city and the health of its inhabitants. [L. 1899 P. 762]

(SECTION 40. Powers of Mayor. L. 1899 P. 762; Am. Elec. Dec. 12, 1906; Repealed Elec. May 19, 1922)

CHAPTER VI.

OF THE POWERS AND DUTIES OF OFFICERS

The Mayor—To Approve Bonds

SECTION 41. The mayor shall take and approve all official undertakings which the ordinances of the city may require any officer to give as security for the faithful performance of his duties, or any

undertaking which may be required of any contractor for the faithful performance of his contract, and when he approves such undertaking he must immediately file the same with the auditor and police judge.
[L. 1899 P. 762]

(Note:—See Sec. 54, Subd. p. Par. 3)

(SECTION 42. Other duties of Mayor. L. 1899 P. 762; Repealed Elec. May 19, 1922)

Certain Officers to be Appointed by Council

SECTION 43. There shall be appointed by the Council, (1) A City Manager, who shall be a citizen of the United States, and who shall hold office during the pleasure of the Council, and who shall receive such compensation as shall be fixed by it, except that no contract for a greater period than four (4) years shall be entered into between the Council and the City Manager; (2) A City Attorney, who shall hold office during the pleasure of the Council, and shall receive such compensation as shall be fixed by the Council; (3) A Health Officer, who shall be a duly licensed and practicing physician and surgeon, and who shall hold office during the pleasure of the Council and shall receive such compensation as shall be fixed by the Council; (4) A City Auditor, who shall hold office during the pleasure of the Council and shall receive such compensation as shall be fixed by the Council; (5) A City Treasurer who shall hold office during the pleasure of the Council, and who shall receive such compensation as shall be fixed by the Council; (6) A Municipal Judge, who shall hold office until the 1st day of January after the general election following his appointment and until his successor shall be appointed and qualified. He shall receive such compensation as shall be fixed by the Council, but such sum shall not be less than \$50.00 per month. Provided, further, that such Municipal Judge may be removed at any time by a vote of four-fifths of the Council.

All City officers appointed as in this section provided, shall enter upon the duties of their respective office, [offices] within ten days following their appointment.

The City Council may, at any time, by a majority vote, remove the City Manager, City Attorney, Health Officer, Chief (Engineer) of the Fire Department, Chief of Police, City Treasurer, City Auditor, City Engineer and any other officers appointed by it.

[L. 1899 P. 762; Am. Elec. May 19, 1922]

City Manager—Powers and Duties

SECTION 44. The administrative powers of the city, and powers of appointment of the officers and employees hereinafter provided for are vested in the City Manager. In case a contract is entered into between the Council and the City Manager for his services, the con-

tract so entered into may be terminated by the Council for good cause. In case of such termination the City Manager may demand a written charge and a public hearing on the same before the Council. The Council may suspend the City Manager pending such hearing. The decision of the Council in such matters shall be final. During the absence or disability of the City Manager the Council may designate some properly qualified person to perform the duties of the office.

It shall be the duty of the City Manager to see that within the City the laws of the state, ordinances, resolutions and by-laws of the Council are faithfully executed; attend all meetings of the Council except when his removal may be under discussion, and he shall recommend for adoption such measures as he shall deem expedient; make reports to the Council from time to time upon the affairs of the city; keep the Council fully advised as to the city's financial condition and its future financial needs. Prepare and submit to the Council a tentative budget for the next fiscal year.

He shall also have the following powers, duties and responsibilities:

Collect Revenues

(1) Promptly and diligently collect and supervise the collection of all revenues and assessments due the city.

Appointments

(2) Appoint and remove all heads of departments, bureaus and all subordinate officers and employees of the city.

Administrative Control

(3) Control all departments, bureaus, and all administrative and business affairs of the city and generally manage its affairs and concerns, except the legislative, governmental and appointive powers vested in the Council.

Control Over Police and Fire Departments

(4) To exercise control over the departments of police and fire, and see at all times that the same are functioning properly and the members thereof performing their duties diligently.

Enforce Contracts

(5) To see that all terms of all contracts, franchises and other conditions imposed in favor of the city and its inhabitants are faithfully kept.

Have Accounts Audited

(6) To cause all city accounts to be audited as frequently as may be deemed necessary by good and competent accountants.

Sale of Bonds—Contracts Over \$250

(7) To investigate and make arrangements for the negotiation and sale of all bonds and certificates of indebtedness issued by the city to the highest bidder thereof and report the same to the City Council for its consideration. If approved by the City Council the City Manager shall have the authority to complete negotiations and when so completed the City Treasurer shall, when authorized by resolution by the City Council, but not otherwise, deliver such bonds and certificates of indebtedness to the purchaser thereof, upon receipt by the City Treasurer of the amount or price named in the resolution authorizing such delivery. It shall be the duty of the City Manager, after public notice, to let to the lowest bidder, who has given adequate security, a contract, which shall be signed by the Mayor for the performance of any work or for the supplying of any materials for each of the offices, departments, boards or bureaus of the city, in all cases where the work and materials cost to exceed the sum of \$250.00, unless by unanimous approval of the City Council it is held to be impracticable to procure the work or materials by contract so let.

Contracts Under \$250.

(8) In all cases where the contract for the performance of any work or the supplying of any materials will cost \$250.00 or less, the City Manager may sign such contract and authorize such work or the purchase of such materials, and in such case he shall make and sign an order in triplicate describing in detail the work to be performed or materials to be furnished, the price thereof, and forthwith deliver one copy of such order to the person performing such work, or furnishing such materials, and another copy to the City Auditor and the third copy retain to himself. The City of Astoria shall not be liable for any account or claim for such work or materials presented against it, unless such order shall be made and accompany such account or claim when presented as above provided.

Budget Estimates

(9) The City Manager shall submit to the City Council an estimate of the expenditures and revenues of the city departments for the ensuing year, which estimate shall be compiled from the detailed estimates and reports from the several offices, departments and bureaus, on uniform blanks to be furnished by the Auditor under the direction of the City Manager. The classification of the estimate of expenditures shall be as nearly uniform as possible for the main functional division of the offices, departments and bureaus, and shall contain all information as provided by the Laws of the State of Oregon, governing municipal budgets, and also the following information:

- (a) Detailed estimate of expense of conducting each bureau, office or department, as submitted by the same;
- (b) Expenditures

for corresponding items for the last two fiscal years; (c) Expenditures for corresponding items for the current fiscal year, including adjustment due to transfer between appropriations plus an estimate of the expenditures necessary to complete the current fiscal year; (d) Amount of supplies and materials on hand at the date of the preparation of the estimate; (e) Increase or decrease of requests compared with corresponding appropriations for current year; (f) Such other information as may be requested by the City Council or that the City Manager may deem advisable to submit; (g) Recommendations of the City Manager as to the amounts to be appropriated with the reasons therefor and such details as the Council may direct.

Sufficient copies of such estimates shall be prepared and submitted as to enable the inspection thereof by the public.

For the purposes of this section all heads of departments, bureaus and other offices empowered by the City Charter or by City Ordinances to control or authorize expenditures, or to incur expenses in any manner, shall furnish to the City Manager estimates, in writing, of the amounts of expenditures for the next fiscal year in their respective departments, including statement of salaries of all their officers and employees, which estimate shall be furnished when called for by the City Manager and shall be in detail and fully itemized.

City Planning

(10) The City Manager shall recommend and assist in carrying out city planning and for this purpose may appoint an advisory board, consisting of three citizens, taxpayers of the city, who shall serve during the pleasure of the City Manager and shall receive no compensation as such;

Preparation for Bids

(11) He shall supervise the preparation for bids for the letting of all contracts and doing of all work and supplying of all materials for all the city and the different departments, bureaus and subdivisions thereof, and, including all streets, alleys, sewers, reclamation projects and other things.

The City Manager may reject any and all bids for the doing of any work or supplying of any material for the city, or any of its boards, bureaus, departments or public works. But in all cases where such bids are rejected by the City Manager he must state to the Council at its next regular meeting the reason for rejecting such bids.

Other Duties May be Prescribed

(12) He shall do and perform any and all other duties as may be prescribed by the Charter or required by ordinance or resolution of the Council from time to time.

Modifying Contracts

(13) The City Manager shall have the power under any contract provided for by this Act, to modify or change the same providing such change does not increase or decrease the contract price a sum exceeding \$250.00, but no change in the construction work or material can be made by him without the approval of the City Council.

Form of Contracts and Bonds—Audit of Claims

Every contract entered into on behalf of the city shall be executed in triplicate, one of said triplicate copies shall be filed with the City Auditor, one shall be retained in the office of the City Manager and the other by the contractor. All bonds given for the faithful performance of all such contracts shall provide for the payment of wages of all laborers employed on the work and for the payment of all materials furnished in or about the same and other provisions as now required by law, and may contain such other additional provisions as the City Manager or Council shall prescribe, and said bonds shall be enforceable by the city or any creditor of such contractor. It shall be the duty of the City Manager to approve or disapprove in writing, every claim for any such work or construction presented for audit, and if he disapproves the same he shall give his reasons therefor; provided, however, such approval or disapproval shall not be binding on the Council. [L. 1899 P. 762; Am. Elec. May 19, 1922]

Certain Officers and Employees to be Appointed by City Manager

SECTION 45. There shall be appointed by the City Manager, under this Charter, the following officers, who shall receive for their services as such the compensation or salary, if any, as fixed by the City Council, and who shall hold office during the pleasure of the City Manager namely: (1) A City Engineer, who shall be a citizen of the United States, and have had at least five years practical experience in the profession of a civil engineer; that whenever or wherever the words City Surveyor or Surveyor shall be used or employed in the Charter of the City of Astoria, the same shall be considered and held as synonymous with City Engineer; (2) A Superintendent of the Water Works and Water System; (3) A Superintendent of Sanitation, Reclamation and Streets and Sewers; (4) A Superintendent of Cemeteries, Playgrounds, Civic Center and other public property; (5) A Chief of Police; (6) A Chief of the Fire Department; (7) In addition to the officers above provided for, the City Manager shall have the power to appoint, with the approval of the Council, such additional assistants and employees, in the various departments and bureaus of the city, as may be necessary for the proper conduct of the city's business. The salary or compensation of such appointees to be fixed by the City Manager subject to the approval of the City Council.

No person shall be appointed to any of the foregoing city offices, save and except the City Engineer and City Manager, unless he be at the time a resident of the City of Astoria and a citizen of the State of Oregon, and if at any time such City officer shall cease to be a resident of the city, his office shall thereby become vacant.

The Council, nor members thereof, shall in no way interfere with or seek to influence the City Manager in his choice of appointment of any officer, agent, or employee, of the city, which the City Manager has full power and authority to so appoint, and any attempt by any member of the Council to so influence the City Manager in the appointment of any such officer shall be deemed misconduct and malfeasance in office by such member, and subject him to removal from office by the remaining members of the Council. [L. 1899 P. 763; Am. Elec. May 19, 1922]

Administrative Departments

SECTION 46. There are hereby created five administrative departments for convenience in carrying on the city affairs, as follows: (1) The Department of Law, Finance and Revenue; (2) Department of Health and Public Safety; (3) Department of Streets and Public Works; (4) Department of Fire and Water; (5) Department of Public Welfare and Public Property.

The Council may, by ordinance, discontinue any department and combine and distribute the functions and duties of the departments and subdivisions thereof.

The Mayor of the City shall assign the supervision of the departments and apportion the same among the Commissioners subject to the paramount administrative power and authority of the Manager, and may change the same at any time. The Mayor shall by virtue of his office have the supervision of the department of Public Health and Safety, but he may resign therefrom and appoint another Commissioner in his stead, and assume the supervision of another department if he sees fit.

The City Manager shall have paramount administrative power and authority over each department, but the Commissioner appointed to supervise each department shall have advisory control over the same. [L. 1899 P. 763; Am. Elec. May 19, 1922]

(SECTION 47. President of Council. L. 1899 P. 763; Am. Elec. Dec. 12, 1906; Repealed Elec. May 19, 1922)

CHAPTER VII. OF THE POWERS AND DUTIES OF OFFICERS (Continued)

Treasurer is Receiver of Moneys

SECTION 48. The treasurer is receiver of taxes, and must receive and keep all moneys that shall come to the city by taxation or otherwise, and pay out the same upon a warrant from the council, attested by the auditor and police judge. [L. 1899 P. 763]

(Note:—See Sec. 54, Subd. p, Par 3)

Fund Accounts—Payment of Warrants

SECTION 49. The treasurer must keep an account with the general fund and a separate account with each special fund that may be raised for any specific object, and when a warrant is drawn on any particular fund, it can only be paid out of such fund, and in the order of its presentation for payment. [L. 1899 P. 763]

Treasurer's Quarterly Report

SECTION 50. The treasurer must make a report of the receipts and expenditures for the quarters ending the last day of March, June, September and December, and file the same with the auditor and police judge within five days from the expiration of such quarters, respectively, which report must be published by the auditor and police judge as may be prescribed by ordinance. [L. 1899 P. 763]

(Note:—See Sec. 54, Subd. p. Par. 3)

(SECTION 51. Duties of Superintendent of Streets. L. 1899 P. 764; Am. Elec. Dec. 12, 1906; Repealed Elec. May 19, 1922)

City Attorney—Qualifications and Duties

SECTION 52. The City Attorney shall be an attorney at law admitted to practice in the State of Oregon. He shall be the legal advisor and attorney for the City and all officers and departments thereof, in matters relating to their official duty. He shall prosecute and defend all suits for and on behalf of the City and shall prepare all contracts, bonds and other instruments in writing in which the City is concerned and shall indorse on each his approval as to form and correctness thereof. He shall be the prosecuting attorney for the municipal Court, and he shall have such number of assistants as the Common Council by ordinance may authorize.

The members of the Common Council, the City Manager and Director or Superintendent of any department, or any official or board; not included within a department, may require the opinion of the

City Attorney upon any question of law involving their respective powers and duties.

When required to do so by resolution of the Common Council, the City Attorney shall prosecute or defend for or on behalf of the city all complaints, suits and controversies in which the city is a party, and such other suits, matters and controversies as he shall, by resolution or ordinance, be directed to prosecute and defend.

He shall attend all regular and special meetings of the City Council.

He shall receive such salary or compensation as the City Council may determine. [L. 1899 P. 764; Am. Elec. May 19, 1922]

(SECTION 53. Auditor and Police Judge. L. 1899 P. 764; Repealed Elec. May 19, 1922)

City Auditor—Duties

SECTION 54. (a) The City Auditor shall be in personal attendance at his office daily during office hours. He shall receive and preserve in his office all accounts, books, vouchers, documents, and papers relating to the accounts and contracts of the city, its debts, revenues and other financial affairs. He shall give information as to the exact condition of all matters and things of his office upon demand of the Mayor, or any Commissioner, or City Manager, and of others interested therein.

He shall be the custodian of the city seal and shall perform such other duties as this Charter or the Council may direct. He shall keep the records and accounts of the city in a complete and intelligible manner. He shall give immediate notice in writing to any person appointed to office in said city of his appointment, which notice shall be deposited in the post office of the city, properly addressed to such appointee, with postage prepaid.

Clerk of Council

(b) He shall be the clerk of the City Council and attend all meetings thereof and keep a record of all meetings. He shall see that all ordinances, resolutions and other matters requiring notice and publication are promptly and correctly published in the official paper of the city, or otherwise as the Council directs. Within three days after every meeting of said Council he shall make and deliver to the City Treasurer a copy certified to by him of all resolutions and ordinances of said Council relating to the city finances, and at the same time file a duplicate with the City Manager.

To Account for Moneys Received

(c) He shall keep an accurate account of all moneys received by him for the city, and forthwith upon receipt thereof pay over the same to the City Treasurer taking a receipt therefor and filing the

same in his office, and report the same to the City Council at its next meeting.

Report Delinquencies to City Manager

(d) It shall be his duty to report forthwith, in writing, to the City Manager any delinquency on the part of any person dealing with his office.

Audit Accounts

(e) He shall audit all bills, accounts and vouchers of the various departments, offices and bureaus of the city, and discharge such other duties as may be imposed upon him by the City Council in respect thereto, and report to the City Council or the City Manager from time to time in respect thereto as directed.

Keep Fund Accounts

(f) He shall keep separate accounts of each department and bureau for which funds are appropriated or collected. He shall require all orders, drafts and warrants for the payment of any claim against the city to state particularly against which of said funds the same are drawn.

Estimates—Payrolls—Warrants—Claims

(g) He shall prescribe the forms of all estimates, payrolls, warrants and other obligations which are payable by the city. All claims, demands and accounts against the city shall be presented to the Auditor with the necessary evidence in support thereof, and made out in form and manner to be prescribed by the City Auditor. All such claims and demands against the city shall be filed with the City Auditor who shall forthwith refer the same to the office [officer] with whom, or department or bureau in which the claim originated for examination. Before any further action shall be had upon any such claim, the officer, bureau or department to which the same shall be referred, shall examine said claim and approve or disapprove the same, in whole or in part, and shall promptly return said claim to the City Manager with such written memorandum of the reason for such disposition thereof as may be proper. The City Manager shall upon examination forthwith return the same to the City Auditor with such recommendation as he deems proper. Upon the return of such claim to the City Auditor, he shall examine the same further as to correctness of such account or demand and such other matters in respect thereto as may be material. Within five days of the return of any such demand or claim from the bureau or department from which it originated or to which it was referred the City Auditor shall report such claim when approved by him to the Council, recommending the payment or non-payment thereof.

Disapproved Claims

(h) The City Auditor shall also, within five days, report to the City Council all claims and demands which have been presented and disapproved, whether by himself or the officer, department or bureau to which the same was referred by him or by the City Manager, with reasons for such disapproval.

No action or proceedings shall be taken in any Court to enforce any claim or demand against the city until forty days have elapsed after the filing thereof with the City Auditor.

Preparation of Payrolls

(i) The City Auditor shall prepare all payrolls for the city officers not otherwise provided for. Payrolls for all subordinate officers and employees of the city departments or bureaus shall be prepared by the heads of the bureaus or departments in which they are respectively employed, and the same shall, upon completion be submitted to the City Manager for his approval, and upon approval by him the same shall be filed with the City Auditor.

Payrolls prepared, as aforesaid, must be approved, in writing, by the City Manager. Upon approval of any payroll as above provided, City Warrants shall issue in payment thereof.

Warrants Upon City Treasurer—Financial Reports

(j) The City Auditor shall sign all warrants and orders drawn upon the city Treasurer. He shall also keep proper books of account showing therein all sums appropriated, the date thereof, and such other matters and things as shall be prescribed by the Council, showing a correct understanding of the city finances. He shall report to the City Council at least once a month the aggregate amount of orders, drafts and warrants drawn on such fund or funds, and the amount of any appropriation and expenditures authorized from each fund which remain unpaid and outstanding during the current fiscal year, except as to local improvement funds, and he shall report as to such local improvement funds, the orders, warrants and drafts drawn thereon when directed by the City Council so to do. All such reports shall be verified by the certificates of the City Auditor.

Issue Licenses

(k) He shall issue all licenses authorized by the city ordinances, upon delivery to him of the receipt of the Treasurer or other office [officer] authorized to collect the licenses for the amount of money required by such license.

He shall enter into an appropriate book the name of every person to whom such license shall be granted, the date thereof, the time during which it shall continue in force, and the sum paid for the

same; and it is the duty of the City Auditor to call upon the Chief of Police for a detail of one or more policemen to enforce the ordinances of said city in relation to all persons required to take out licenses, and he shall report to the city attorney for prosecution all violation of said ordinances that may come to his knowledge.

Deputies and Clerks—Administer Oath—Claimants May be Sworn

(1) The Auditor may appoint one Chief Deputy and other deputies and clerks as the Council may authorize; such deputy or deputies shall have power to perform and do any act or duty required of the Auditor, and the Auditor shall be responsible for their conduct.

The compensation to be paid said deputies and clerks shall be determined by the Council. The Auditor and each of his deputies is authorized to administer an oath and certify any acknowledgment authorized or required to be taken by any city ordinance or law of this state, and he may require any person presenting for settlement an account or claim of any kind against the city, to be sworn before him touching said account or claim, and when so sworn to answer orally any facts relative to the merits or justice of said account or claim.

Accounts With Treasurer—Auditing Claims

(m) The Auditor shall keep an account of all moneys paid into and out of the Treasury. Any ordinance or resolution providing for the payment of any demand out of the treasury, whether from public funds or private funds deposited therein shall always be construed as requiring the auditing of said demand by the Auditor before the same is paid.

Claims of Delinquent Employees or Other Persons

(n) No demand shall be allowed by the Auditor in favor of any person or corporation indebted to the city in any manner, except for assessments or taxes, without first deducting the amount of any indebtedness then due of which he has notice, nor in favor of any person having the collection, custody or disbursement of public funds, unless his account has been presented, passed, approved and allowed as herein required, nor in favor of any officer or employee who has neglected to make his official returns or reports in the manner and at the time required by law, ordinance or the recommendation of the Council; nor in favor of any officer or employee who has neglected or refused to comply with any of the provisions of law regulating his duties when so notified by the City Manager.

Register of Warrants—No Priority of Demands

(o) The Auditor shall keep a register of all warrants, showing the funds upon which they are drawn, the number, in whose favor, for what service and the appropriation applicable to the payment thereof.

He shall not allow any demand out of its order, nor give priority to one demand over another drawn on the same specific fund, except when liability for any claim presented is not sufficiently apparent to him he may delay the payment thereof until such liability shall be determined.

Certified Copies of Records

(p) The Auditor shall make certified copies of any papers, reports or transcripts, or any record kept in his office, when so required, upon the payment of his fees therefor, and such fee or fees shall be the same as provided by the Laws of Oregon for the County Clerk of Clatsop County, for like service, and when paid shall be deposited with the City Treasurer and placed in the general fund. No fee shall be charged when transcripts, copies or certificates are verified for official business of the city.

All certified copies of any papers, reports, or transcripts of any records kept in the office of the Auditor, and all certified copies of ordinances and resolutions of said city certified to by him under the corporate seal, shall be evidence in all Courts and places with like effect as the original would be if produced.

Powers Formerly Vested in Auditor and Police Judge

All the power and authority vested in the Auditor and Police Judge, and duties required to be performed by the charter provisions of the city, are hereby vested in and shall be performed by the City Auditor, excepting such as are vested in and required to be performed by the Municipal Judge. [L. 1899 P. 764; Am. Elec. May 19, 1922.]

(SECTION 55. Accounts to be presented to Council by Auditor. L. 1899 P. 764; Repealed Elec. May 19, 1922.)

(SECTION 56. Auditor to draw warrants. L. 1899 P. 764; Repealed Elec. May 19, 1922.)

(SECTION 57. Auditor and Police Judge to keep minutes. L. 1899 P. 765; Repealed Elec. May 19, 1922.)

(SECTION 58. Auditor to issue licenses. L. 1899 P. 765; Repealed Elec. May 19, 1922.)

(SECTION 59. Auditor to keep books of account. L. 1899 P. 765; Repealed Elec. May 19, 1922.)

Official Books

SECTION 60. The official books and paper of all the officers mentioned in this chapter are city property, and must be kept as such by such officers during their continuance in office, and then delivered to their successors. [L. 1899 P. 765.]

(SECTION 61. Police Court. L. 1899 P. 765; Repealed Elec. May 19, 1922.)

(SECTION 62. Auditor and Police Judge—vacancy. L. 1899 P. 765; Repealed Elec. May 19, 1922.)

Municipal Court—Municipal Judge

SECTION 63. There is hereby created in the City of Astoria, a Court to be known as the Municipal Court. It shall have full and exclusive jurisdiction of all violations of the city ordinances with full power to enforce any judgment that it may render in the same manner as judgments of the Justice Courts of this State are, or may from time to time be enforced under the laws of the State of Oregon.

Transcripts of such judgments may be filed in the office of the County Clerk with like effect and in like manner as provided by law in the case of judgments of such Justice Courts, and appeals from such judgments may be taken to the Circuit Court of said State for Clatsop County in like manner and under the same circumstances as in the case of judgments of such Justice Courts. All proceedings in said Court shall be governed and regulated by the laws of the State of Oregon in relation to Justice Courts, including taxation of costs and disbursements.

All fees, fines and costs collected by said Court shall be turned over to the City Treasurer by the Judge of said Court, and said Judge shall make a monthly report, in writing, thereof to the City Council.

The Municipal Judge of the City of Astoria shall be the Judge of said Court, and he shall have jurisdiction and authority of a Justice of the Peace in both civil and criminal matters, and shall have the same power and jurisdiction and be subject to all general laws of the State of Oregon prescribing the duties and rights of a Justice of the Peace and mode of performing them. [L. 1899 P. 765; Am. Elec. May 19, 1922.]

(Note:—Jurisdiction of police courts set out in City of Astoria v. Malone, 87 Or. 88, 169 Pac. 749, decided before Section 63 was amended.)

Accounting for Cash Bail

SECTION 64. Whenever any police officer turns over to the Judge of said Court any cash bail taken by him for the appearance of any person charged with an offense, the Judge of said court shall thereupon take the affidavit of said officer as to the person and offense charged, and if any such person does not appear and answer such charge during that day, the Judge of said court shall declare such cash bail forfeited for the use and benefit of the city; and he shall make a record of the matter on the records of said Court,

and forthwith pay the sum forfeited to the city treasurer, and shall enter the fact of such payment, and a copy of the treasurer's receipt, below or on the margin of his record of such proceedings. If the person so charged with an offense appears for trial during that day the judge of said court shall hold such cash so deposited to answer any fine and costs that may be assessed against the defendant after the determination of his case. [L. 1899 P. 766; Am. Elec. May 19, 1922]

(SECTION 65. Auditor shall make monthly statement. L. 1899 P. 766; Repealed Elec. May 19, 1922.)

(SECTION 66. Compensation of Auditor. L. 1899 P. 766; Repealed Elec. May 19, 1922.)

(SECTION 67. Disposal of fines. L. 1899 P. 767; Repealed Elec. May 19, 1922.)

Pending Actions

SECTION 68. All actions and proceedings pending in the police court of the city of Astoria, on the taking effect of this Act, shall thereafter be proceeded in, continued and tried by the Municipal Judge. [L. 1899 P. 767; Am. Elec. May 19, 1922.]

Municipal Judge Authorized to Administer Oaths

SECTION 69. The Municipal Judge is authorized to administer any oath authorized, or required, to be taken by any law of this State or city ordinance. [L. 1899 P. 767; Am. Elec. May 19, 1922.]

Duties of Surveyor

SECTION 70. The duties of surveyor shall be provided by ordinance, and other duties not inconsistent with this act may be required of any officer mentioned in this chapter, by ordinance. [L. 1899 P. 767.]

(Note:—See Sec. 45 Par. 1.)

Books May Be Inspected by Council

SECTION 71. The official books and papers of any officer mentioned in this chapter may be inspected at any time by a committee of the council, appointed by the mayor for that purpose. [L. 1899 P. 767.]

CHAPTER VIII.
OF THE IMPROVEMENT OF STREETS, CON-
STRUCTION OF SEWERS AND ESTAB-
LISHING OF GRADES

**Power to Improve Streets—Special Assessments—Payment From
General Fund Restricted— Issuing Bonds—Fee of
Street Ends**

SECTION 72. The council shall have the power and authority to grade, pave, plank, gravel, curb and otherwise improve and repair the highways, streets, avenues, lanes and alleys of the city, and for the purpose of defraying the expenses thereof may divide the city into street improvement districts. The term paving shall be deemed to include the construction of crosswalks, gutters and curb. The power and authority to improve a street includes the power and authority to improve the sidewalks and pavements and to determine and provide for everything convenient and necessary concerning such improvement. The fee of all the streets now within the city and recorded between low and high water mark of the Columbia River is granted to the city, and all the streets within the city limits and at right angles to the Columbia River are extended to the ship's channel for the use of the public and the fee of the same is hereby vested in the City of Astoria, and all streets now constructed below ordinary high tide, and provided for in this act, shall vest in the city in fee, and shall forever remain open as thoroughfares for the use of the public. No part of the expenses of improving any street, lane or alley, by grading, paving, planking or graveling, or otherwise, or repairing the same, except as hereinafter provided, shall be paid from the general fund, but the whole of the expense of such improvements, including the street crossings, shall be defrayed by special assessment upon the lots, lands and premises, inclusive of water frontage out to the harbor line, included in a special assessment district, to be constituted of the lands fronting upon the part of the street or alley so improved or proposed so to be, and of such other lands as in the opinion of the council may be benefited by the improvement; except that repairs can be made as hereinafter provided in section 76; except, also, that whenever any of the owners of the land assessed for such improvement shall ask for the privilege of paying his assessment in installments, as hereinafter provided, the council shall have the authority to pay out of the general fund for said improvement a sum of money equivalent to the amount left owing to the city through the acceptance of the provision for such payment in installments. And the council shall have the power and authority to issue and sell, from time to time, bonds of the City of Astoria, for the purpose of meeting such expenses or replenishing the said general fund, and all

bonds, the proceeds of sales of which are applied in meeting such expenses or replenishing said general fund, shall not be taken into computation in ascertaining the amount of indebtedness of the city mentioned in section 132 of this act. Provided, however, that the bonds issued and warrants drawn upon the general fund for the purpose of meeting such expense shall not exceed in the aggregate, at any one time, the sum of \$50,000, and any and all bonds issued and warrants drawn in excess of said amount for said purpose shall be void. When the expenses for any improvement or repairs shall be assessed in a special assessment district, and there shall be lands belonging to the city or used for public buildings or public grounds, and exempt by law for [from] such assessments, fronting on such improvement, or within said district, such part of the expenses of such improvement as in the opinion of the council or board of assessors making the special assessment would be justly apportionable to such public grounds, buildings and city property, shall be paid from the general fund. [L. 1899 P. 767; Am. Spl. L. 1901 P. 783 Sec. 2.]

(Note:—Sec. 72 applies also to Sewers—See Sec. 98.)

("No part of the expenses of improving * * * except as hereinafter provided, shall be paid from the general fund" upheld in *Caruthers v. Astoria*, 72 Or. 505, 143 Pac. 899, 1106, decided in July, 1914, but see Section 188 adopted in 1916.)

Council to Control Sidewalks—Fix Grade thereof—Power to Cause Owner to Remove Obstruction

SECTION 73. The city council shall have control of all sidewalks in the public streets and alleys of the city, and may prescribe the grade thereof. They shall have the power to construct and maintain sidewalks and crosswalks in the public streets and alleys, and charge the expenses thereof upon the lots and premises adjacent to and abutting upon such walks. The council shall also have authority to require the owners and occupants of lots and premises to construct and maintain sidewalks in the public streets adjacent to and abutting upon such lots and premises, and to keep them in repair at all times, and to construct and lay the same upon such lines and grades and of such width, materials and manner of construction and within such time as the council shall by ordinance or resolution prescribe. The council shall also have the power to cause and require the owners and occupants of any lot or premises to remove all earth, snow and ice from the sidewalks in front of and adjacent to such lots and premises, and to keep the same free from obstructions, encroachments, incumbrances, filth and other nuisances. If the owner or occupant of any lot or premises shall fail to construct or maintain any particular sidewalk, as mentioned and prescribed above, or shall fail to keep the same in repair or to remove the earth, snow, ice and filth therefrom or to remove and keep the same free from obstructions, en-

croachments, incumbrances or other nuisances, or shall fail to perform any other duty as required by the council in respect to such sidewalks within such time and in such manner as the council shall require, the council may cause the same to be done, and such sidewalk to be constructed or repaired at the expense of such owner or occupant; and the amount of all expenses incurred by the council thereby, together with a sum equivalent to twenty-five per cent of such expenses, as a penalty for the delinquency of the property owner, shall be charged against and become a lien upon the abutting property, which shall be equalized and collected in the manner provided in Section 76 for the equalization and collection of amounts due for certain street repairs. [L. 1899 P. 768.]

**Special Assessments—Board of Assessors—Resolution of Intention—
Assessment District—Filing of Plans—Remonstrance—Time and
Manner Ordinance—Change of Plans**

SECTION 74. When, by the provisions of this act, the costs and expenses of any street, local or public improvement may be defrayed in whole or in part by special assessments upon lands abutting or adjacent to, or otherwise benefited by the improvement, such assessment shall be made as in this Charter provided, and there shall be a Board of Assessors consisting of the Mayor, Treasurer and City Engineer. Special assessments authorized by this act shall be made by such Board. If a member of the Board shall be interested in any special assessment directed by the Council, they shall appoint some other person to act in his stead, in making the assessment, who for the purpose of that assessment, shall be a member of the board. When the Council shall determine to make any public improvement or repairs, and defray the costs and expenses thereof by special assessment, they shall so declare by a resolution or ordinance, stating in general terms the improvement and shall designate the district of lands and premises which in their judgment shall be benefited thereby, and upon which the special assessment shall be levied. It shall be sufficient to state in general terms in such resolution or ordinance, in describing the proposed improvement or repairs, whether the street or other highway is to be improved or repaired by grading and planking or piling, or underpinning and planking, or in any other generally designed manner, and the width of the improvement, but no more particular statement of such improvement shall therein be required. By such resolution or ordinance the Council shall also direct notice of their intention to make such improvement or repair to be given by publication in a daily newspaper published in said city. Such notice shall contain a statement of the improvement to be made in such general terms as can be used in such resolution or ordinance, and a statement of the district to be assessed for such improvement or repair, and such notice shall be published in said newspaper for at least five business days. If a remonstrance against such improvement or repair, signed by the owners

of more than one-half of the property in the district in which the special assessment is to be levied, shall be filed with the City Auditor by the time of the next regular meeting of the Council following the final publication of such notice, no such improvement or work shall be ordered, except by a vote of four-fifths of all members of the Council. Before ordering any public improvement or repairs, any part of the expense of which is to be defrayed by such district assessment, the Council shall also by resolution or ordinance cause estimates of the expense thereof and specifications for the proposed work to be made and deposited with the City Auditor. At any time after the expiration of said time in which said remonstrances [remonstrance] can be filed, and within ninety days thereof, and also after such estimates and specifications are deposited, the Council may, by ordinance, order the improvement or repair made, and prescribe the time and manner of making the same.

Where, during the course of an improvement of a street, under the provisions of this Section, it should develop that the improvement cannot be made according to the original plans and specifications hereinbefore provided for, by reason of the character of the ground where the improvement is to be made, or for any other reason, and the City Engineer shall so report, the Common Council shall have the authority to provide by resolution for new plans and specifications to finish the improvement; such new plans and specifications to deviate as little as possible from the original plans and specifications so that the improvement may be made as nearly as possible like the improvement contemplated in or provided for in the original plans and specifications. Upon the filing of such new plans and specifications, the Common Council shall give notice by publication in a daily newspaper published in the City of Astoria, for a period of five business days, of the intention of the Common Council to direct such improvement to be completed under the new plans and specifications, such notice shall contain the report of the City Engineer and designate wherein the new plans and specifications differ from the original plans and specifications, and the reason why the said improvement cannot be made or completed thereunder, and said Common Council, in said resolution and in said notice, shall designate a time and place where a Committee of the Council, appointed for that purpose, shall consider written or verbal objections to the completion of said improvement under the new plans and specifications, and at the time and place mentioned in said notice, such Committee shall proceed to hear all objections written or verbal and thereafter make a report to the Common Council, together with their recommendation, and thereupon and thereafter, if the Common Council deems it advisable to complete the improvement according to the new plans and specifications, proceedings shall be taken as provided by the Charter, for the completion of said improvement, and the same as though the street were to be completed

under the original plans and specifications, providing, however, that it shall not be necessary to give any further or other notice of the intention to make such improvement or complete the same.

In the event of a street being completed according to new plans and specifications, the contractor under the original plans and specifications shall be entitled to receive pay for the actual amount of work performed by him under such original plans and specifications, the value thereof to be determined by the City Manager, and said Committee, and if there be a disagreement as to the value of the actual amount of work, performed by such contractor, under the original plans and specifications the contractor shall have the right to appeal to the Common Council from the report of the City Manager, and said Committee, and the judgment of the Common Council in said matter shall be final. The appeal provided for in this Section shall consist of a written statement by the contractor to the Common Council, declaring an appeal from the decision of the City Manager and said Committee. The assessment in cases where a street is completed under new plans and specifications shall consist of the amount paid or to be paid the contractor under the original plans and specifications, as well as the amount of the contract under the new plans and specifications, together with the costs and expenses of making such improvement as otherwise provided for in this Charter. The costs and expenses thereof to include all costs and expenses in connection with the improvement of the street, including the newspaper advertising, Engineer's costs and expenses, costs of making the assessment and any other costs and expenses in connection therewith, both under the original plans and specifications, as well as the new plans and specifications.

This section shall be effective in the case of all street improvement work in the City of Astoria, where the same has heretofore been begun and not fully completed, and the provisions hereof shall fully extend to the improvement of Irving Avenue in said City of Astoria from the West line of Eighteenth Street to the East line of the City of Astoria as laid out and recorded by John M. Shively. [L. 1899 P. 769; Am. Elec. Dec. 9, 1914; Am. Elec. May 19, 1922.]

(Note:—Sec. 74 applies also to Sewers—See Sec. 98.)

Manner of Assessment

SECTION 75. Whenever any special assessment is to be made pro rata upon the lots and premises in any special assessment district, according to the benefits, the Council shall, by resolution or ordinance, either at the time of ordering the improvement or repair, or before or after the time, direct the same to be made by the Board of Assessors, and shall state therein the amount to be assessed, and describe or designate the lots and premises or locality constituting the district to be assessed. Upon receiving such order or directions the Board of

Assessors shall make out an assessment roll ordering and describing therein all lots, premises and parcels of land to be assessed, and the valuation thereof with the names of the parties, if known, and shall levy thereon and against such persons the amount to be assessed, in the manner to be directed by the Council and the provisions of this Act applicable to assessments. They shall assess upon each lot or parcel of land such relative portion of the whole sum to be levied as shall be proportionate to the estimated benefit resulting to such lot or parcel of land from the improvement; and when such assessment is completed, they shall report the same to the Council. The costs and expenses of any improvements which may be defrayed by special assessment shall include the cost of survey, plans, inspection, assessments, advertisements, and cost of construction. [L. 1899 P. 771; Am. Spl. L. 1901 P. 785 Sec. 3; Am. Elec. Dec. 12, 1906.]

(Note:—Sec. 75 applies also to Sewers—See Sec. 98.)

Property Owners to Repair Streets—City May Repair and File Lien

SECTION 76. Whenever in the judgment of the Council it is necessary or advisable to repair a street in front of any lot or parcel of land and the costs of the repairs shall not exceed \$25., or a sum so apportionate to \$25. as fifty feet of frontage is to the entire frontage of a lot or parcel of land upon the street, if the lot or parcel of land have more or less than fifty feet of frontage on the street to be improved, the repair may also be made as follows: If the owner of the lot or parcel of land be a resident of the city, the City Manager shall serve or cause to be served upon him personally a notice in writing, stating the repairs to be made and requiring him to make the same within twenty-four hours after the time such service of notice is made. If the owner of the lot or parcel of land be not a resident of the city or be absent therefrom, such notice requiring the improvement to be made within seventy-two hours may be served upon him by posting the same upon the lot or parcel of land. If the repair be not then made within the time specified within the notice, the City Manager may at any time within sixty days thereafter cause the same to be made, and the cost of the repair, together with the further sum equivalent to 10 per cent of the costs of the repair, as a penalty for the delinquency of the property owner, shall be a lien upon the lot or parcel of land from the time the repair is so made, PROVIDED, that within thirty days from the time of the completion of the repair the City Manager shall file in the office of the City Auditor an itemized statement showing the cost of the repair, and the amount due for the same, inclusive of the penalty, and that service of such notice has been made as herein provided. The City Auditor shall keep a lien docket in which the amount of such liens returned by the City Manager shall be entered by him, and such docket shall also contain a column or space in which shall be entered the amount of such liens after the same are equalized or corrected, as well as descriptions of the prop-

erty upon which the liens may exist, the names of the owners thereof, and the dates of the completion of the work, and the dates upon which the statements are filed. At any time after the amounts of any liens are [as] returned by the City Manager have been entered in such (a) lien docket, the Council may, by resolution, cause a notice to be published, for at least five days in some newspaper of the city, of its intention to examine and correct or confirm or equalize the charges entered in such lien docket as returned by the City Manager, at a designated regular meeting of the Council and that any objections to the same can be made, and will be considered at such meeting. Such lien charges shall be examined, equalized, corrected or confirmed by the Council at such meeting; and at said time, or any time thereafter, the Council may, by resolution, direct the amount, as equalized corrected or confirmed, to be entered in the appropriate column or space thereof [therefor]. Such liens may be foreclosed and the property sold in the manner as provided in case of any other assessments. PROVIDED FURTHER, that when the cost of making repairs to any street shall not exceed the sum of \$125. for three hundred lineal feet of the street repaired and a proportionate amount of any fifty lineal feet thereof, the Common Council may order the same repaired, and pay the costs and expenses thereof out of the General fund; and in case of an emergency, any repair to a street may be made and paid out of said fund, at a cost not exceeding \$300., when authorized by a vote of three-fifths of the members of the Council. All material placed upon the streets in the repair and improvement thereof shall remain the property of the City of Astoria. [L. 1899 P. 771; Am. Spl. L. 1901 P. 785 Sec. 4; Am. Elec. May 19, 1922.]

Filing of Special Assessments—Publication—Board of Equalization—Confirmation of Assessment

SECTION 77. When any special assessment shall be reported by the Board of Assessors to the Council, as in this Charter directed, the same shall be filed in the office of the City Auditor and numbered; before adopting the assessment the Council shall cause a notice to be published for five insertions, within a period of seven (7) successive days in some newspaper of the city, of the filing of the same, with the Auditor, and appointing a time when a committee of the Council, appointed by it for that purpose, and the Board of Assessors will meet to review the assessment. The City Auditor, shall, on or before the day of the first publication of such notice, mail a like notice to each owner of property so assessed, which notice shall be deposited in the post office of said city, postage prepaid, addressed to such owners at their last known place of address, and no notice need be given to any unknown owner, or those persons whose addresses are unknown to the Auditor. This committee and the Board of Assessors shall sit as a board of equalization and shall have power to raise or lower the whole or any part of such assessment; PROVIDED, that in case any

assessment is raised, the parties affected thereby shall be notified in writing three days before such change shall be made. Any person objecting to the assessment must file his objections thereto in writing, with the City Auditor. The said committee and board of assessors shall report the result to the Council, who shall have the power and authority to review and correct the action of said board of equalization, and confirm the same as corrected; or they may refer the same back to the board of assessors for revision, or annul it and direct a new assessment—in which case the same proceedings shall be had as in respect to the previous assessment. When a special assessment shall be confirmed, the City Auditor (.) shall endorse a certificate thereof upon the roll, showing the date of confirmation. When any special assessment shall be confirmed by the Council, it shall be final and conclusive. All special assessments from the date of the confirmation thereof, constitute a lien upon the respective lots or parcels of land assessed, and shall also be charged against the person to whom assessed, until paid. Upon the confirmation of such assessment it shall be the duty of the City Auditor to enter a statement thereof in the docket of city liens as provided in the next section. [L. 1899 P. 772; Am. Elec. May 19, 1922.]

(Note:—Sec. 77 applies also to Sewers—See Sec. 98.)

Docket of City Liens

SECTION 78. The docket of city liens is a book in which must be entered in pursuance of Section 77, the following matters in relation to assessments for the improvement of streets:

- (1.) The name of the owner thereof, or that the owner is unknown;
 - (2.) The number or letter of the lot assessed and the number or letter of the block and the town or addition in which it is situated, or, if a tract of land, a description of the tract of land;
 - (3.) The sum assessed upon such lot or tract of land and the date of the entry;
 - (4.) The time and the manner in which the assessment is to be paid.
- [L. 1899 P. 773]

(Note:—Sec. 78 applies also to Sewers—see Sec. 98).

Payment For Street Improvements in Installments

SECTION 79. (1) Whenever the Common Council of the City of Astoria shall have proceeded to improve any street, or part of street, or to lay any sewer, within the corporate limits thereof, and shall have assessed the costs of such improvement, or sewer, to the property benefited thereby, or liable therefor, according to the provisions of the Charter of said City of Astoria, it shall be lawful for the owner of any property so assessed for such improvement, or sewer, in the

sum of Fifty (\$50.00) Dollars, or more, at any time on or before the confirmation of such assessment, to file with the Auditor and Police Judge, a written application to pay said assessment in installments, and such written application shall state that the said applicant and property owner does thereby waive all irregularities or defects, jurisdictional or otherwise, in the proceedings to improve the street, or lay the sewer, for which said assessment is levied, and in the apportionment of the cost thereof. Said application shall contain a provision that the said applicant and property owner agrees to pay said assessment in twenty (20) annual installments where the assessment levied against property owned by him within the assessment district of said improvement thereof shall exceed Five Hundred (\$500.00) Dollars, and in ten (10) annual installments where the assessment against said property shall be less than Five Hundred (\$500.00) Dollars, but more than Two Hundred Fifty (\$250.00) Dollars, and in five (5) annual installments where the assessment against said property shall be less than Two Hundred Fifty (\$250.00) Dollars, and more than Fifty (\$50.00) Dollars, with interest at the same rate on all of said assessments which have not been paid, as that expressed in the bond hereinafter provided for, issued to pay for such improvements, said application shall also contain a statement by lots or blocks, or other convenient description of the property of the applicant, assessed for such street improvement, or sewer.

All special assessments under the sum of \$50.00 or where no application for the payment of such special assessment in installments is made, as provided herein, shall be due and payable on confirmation of such assessment, or at such times thereafter, within thirty (30) days, as the Common Council may prescribe. If any special assessment shall be divided into installments, a special assessment roll shall be made for each installment, as the same shall become due, with accrued interest on all unpaid installments included, assessed therein. Such special assessment roll may be made and confirmed without notice to the person assessed. In case any installment of [or] assessment against any lot or parcel of land shall not be paid within thirty (30) days from the time the same becomes due, the Council shall have the privilege and option of declaring by Resolution or Ordinance, that all of the remaining unpaid installments which stand against the same property, shall at once become due and payable; and when so declared, all such installments may be collected at the same time, and in the same manner, as in the case of special assessments under the sum of \$50.00, on [or] said remaining unpaid installments, together with interest due thereon, may be collected at one time by a suit in the Circuit Court of the State of Oregon for Clatsop County, in which suit the persons owning property upon which the unpaid installments for any one street assessment remains due, may be joined as parties defendant.

(2.) APPLICATION TO PAY INSTALLMENTS. HOW KEPT AND ENTERED. The Auditor of the said City of Astoria shall keep all such applications as are herein specified, in convenient form for examination. The application received for each street improvement and each sewer shall be separate, and he shall also enter in a book kept for that purpose, under separate heading for each street improvement and each sewer, the date of filing of each application, the name of the applicant, the description of the property, and the amount of the assesment, as shown in the application.

(3.) ASSESSMENT LIEN DOCKET. PRIORITY OF LIENS. After the expiration of the time for filing applications for the payment of assessments for improvements of streets or laying of sewers by installments, as herein provided for, the Auditor shall enter in a docket kept for that purpose, under separate head for each street or sewer, by name or number, a description of each lot or parcel of land, or other property against which such assessment is made, or which bears or is chargeable for the cost of such improvement, or sewer, with the name of the owner and the amount of such unpaid assessment. Such docket shall stand thereafter as a lien docket as for taxes assessed and levied in favor of said City of Astoria, and for the amounts of such unpaid assessments therein designated, with interest on said unpaid assessments at the rate of six (6) per cent per annum against each such lot or parcel of land, or other property, until such assessments and interest are paid in the manner hereinafter provided, and all unpaid assessments and interest, shall be and remain a lien on each lot or parcel of land, or other property, respectively, in favor of such City, and such lien shall have priority over all other liens and incumbrances whatsoever.

(4.) CITY IMPROVEMENT BONDS TO ISSUE FOR IMPROVEMENTS. When such lien docket shall be made up, as hereinbefore provided, as to the assessments for the improvement of streets, or the laying of sewers, the City of Astoria shall, by Ordinance, authorize the issue of its bonds in convenient denominations, not exceeding Five Hundred (\$500.00) Dollars, and in all equal to the total amount of unpaid assessments for such street improvements, and sewers, and for which application to pay, under the provisions of this Act, have been filed, as shown by said lien docket, and such bonds, shall, by the terms thereof, mature in five (5), Ten (10) and Twenty (20) years respectively, from the date thereof, and be payable in Gold coin of the United States, and bear interest not to exceed six (6) per cent per annum, interest payable semi-annually, said interest to be evidenced by coupons attached to said bonds, provided the right to take up and cancel such bond, or bonds, upon the payment of the face value thereof, with accrued interest to the date of payment of any semi-annual coupon period, or after one (1) year from the date of such bond, or bonds, shall be and hereby is vested in the City of

Astoria, and provided further, that the five (5) year bonds are issued only for an amount equal to and for the purpose of paying that part of the cost of the improvement upon which five (5) year installment applications have been made, and ten (10) year bonds are issued only for an amount equal to and for the purpose of paying that part of the cost of the improvement upon which Ten (10) year installment applications have been made, and twenty (20) year bonds are issued only for an amount equal to and for the purpose of paying that part of the cost of improvement upon which twenty (20) year installment applications have been made. Notice, stating that said bonds are to be taken up and cancelled as aforesaid, and that the interest thereon shall cease at the interest payment period next following, shall be published in the official newspaper of the City of Astoria not less than twice during the month preceding said semi-annual period, and after said semi-annual period, interest upon the bonds designated in such notice shall cease. Such bonds before issuance shall be signed by the Mayor and also, by the Auditor and Police Judge of the City of Astoria and authenticated by the seal of the City of Astoria attached thereto, and shall be registered consecutively by number and denomination of each in a book to be kept by the Auditor and to be known and designated as the "Improvement Bond Register." Each of such bonds, where they are issued for the improvement of streets, or for the laying of sewers, shall have distinctly and plainly inscribed or printed on the face thereof, the register number of said bond, and the words "Improvement Bond" with the name of the City of Astoria. Such bonds shall be advertised for sale and sold for the highest price obtainable, but for not less than par and accrued interest, and the proceeds thereof shall be paid by the purchaser to the Treasurer of the City of Astoria, and the par value thereof credited to the respective street improvement and sewer funds for which said bonds are issued, and the accrued interest and premium accruing from the sale of said bonds shall be credited to the "Improvement Bond Sinking Fund."

(5) INSTALLMENT PAYMENTS—PROCEEDINGS IN RESPECT THERETO. Thereafter there shall be due and payable annually, for five, ten and twenty years respectively, according to the amount of the assessment levied, and installment application made therefor, as hereinbefore provided for, to the Treasurer of such city, by the owner of each lot or parcel of land assessed for the improvement of any street, or the laying of any sewer, whose application to pay the cost of such improvement, or sewer, by installments has been filed, as hereinbefore provided for, one-fifth (1-5), one-tenth (1-10) or one-twentieth (1-20) as the case may be, of the cost of such improvement, or sewer, assessed against the property of such owner, as appears by the lien docket hereinbefore described, together with the amount of one year's interest, at not to exceed six (6) per cent per annum on unpaid assessments, or installments, the first payment aforesaid, shall be due and payable at the expiration of one year from

the date of said assessment in the lien docket, and subsequent payments at the expiration of each year thereafter, until the entire amount of such assessment has been paid. Should any owner, or owners, neglect or refuse to pay any installment, as the same may become due and payable, for a period of twenty (20) days, then the City of Astoria, shall have the option of declaring the same collectable in the manner and with the same penalties as delinquent street or sewer assessments are collected in said City. It shall be the duty of the Auditor, at least twenty (20) days before any installments and interest thereon, set forth in the lien docket, are due, to make the proper extensions of such installments and interest, on such lien docket, and turn a copy of the same over to the Treasurer of the City of Astoria, whose duty it shall be, within ten (10) days thereafter, to notify the owner, or owners of property that the installments aforesaid will become due and payable on the due date. Such notice shall be given by mailing the same to such owner, or owners, but a failure of such owner, or owners, to receive such notice shall not be taken or held to prevent the collection of the same, as herein provided. The Treasurer of the City of Astoria shall issue a receipt to the person, or persons paying said installments and interest, and shall file duplicates of said receipt with the Auditor, and said Auditor shall make the proper entry on the lien docket, showing the amount of each payment and the date thereof, provided however, that at any time after issuance of such bonds, any owner, at the time being, of any such lot or parcel of land, or other property, against which the assessment is made and docketed in said lien docket, may pay into the City Treasury of the City of Astoria, the whole amount of such assessment, and for which such lien is docketed, together with full amount of interest and costs accrued thereon, to such date of payment, and upon producing to the Auditor, the receipt of such treasurer thereof (in which receipt shall be not only stated the amount of such payment, but also, a description of the lot or parcel of land, or other property, upon which such payment is made) such Auditor shall enter in such lien docket, opposite the entry of the lien therein, the fact of such payment and the date thereof, and that the lien thereof is discharged.

(6) MONEY RECEIVED UNDER ACT PLACED IN WHAT FUNDS. The Treasurer of the City of Astoria receiving any funds accruing by virtue of this Act, shall keep such funds and account thereof, separate and apart from other funds of said City. The amount of such funds paid on account of installments and interest on unpaid installments shall be placed to the credit of funds to be known and designated as "Improvement Bonds Sinking Fund" and "Improvement Bond Interest Fund" respectively. The amount placed to the credit of the Improvement Bonds Sinking Fund shall from time to time, under direction of the Common Council be deposited in such banks as will pay the highest rate of interest thereon, or be invested in, or used for the purchase of improvement bonds of such city, at

par. In the purchase of improvement bonds, the accrued interest thereon shall be paid out of the Improvement Bond Interest Fund, and all interest received by the Treasurer on account of coupons due, shall be placed to the credit of the Improvement Bond Interest Fund. Interest due on improvement bonds shall be paid out of the Improvement Bond Interest Fund. All bonds purchased by the City shall be held by the Treasurer of the city of Astoria as a sinking fund and shall be disposed of by direction of the Common Council, when required for the redemption of bonds previously issued, as they shall become due and payable.

(7) ENTRY OF PAYMENTS MADE IN LIEN DOCKET. Entry of payments of installments, interest and costs made under the provisions of this Act, shall be made in the lien docket aforesaid, as the same shall be received, with the date thereof, and such payments made and entered in said lien docket, shall be and operate as a discharge of such lien, to the amount of such payment and from the date thereof.

(8) OBLIGATION UNDER THIS ACT NOT WITHIN LAW LIMITING CITY DEBT. No obligation incurred by the City of Astoria, by virtue of this Act shall be deemed or taken to be within, or any part of the limitation by law, as to indebtedness of said city.

(9) REDEMPTION OF BONDS. At any time after the bonds, which may be issued by virtue of this Act, shall become payable, the City of Astoria, shall redeem such bonds and to that end shall redeem the same consecutively by number of such bonds, commencing with number one (1) of such bonds, and shall give notice of the readiness of said city to redeem by publication in some newspaper published, and having general circulation in said city, once each week for three (3) successive weeks, giving therein the number [numbers] of the bonds which will be redeemed and the time at which such redemption will be made and after such time so fixed for redemption no interest shall accrue, or become payable on such bonds so notified for redemption. [L. 1899 P. 773; Am. Spl. L. 1901 P. 787 Sec. 5; Am. Elec. Mar. 22, 1916.]

(Note:—See Sec. 54, Subd. P. Par 3.)

Segregation of Assessments—Deficiency Assessments—Excess Assessments—Re-assessments

SECTION 80. Should any lot or lands be divided after a special assessment thereon has been confirmed and divided into installments, and before the collection of all the installments, the Council may require the board of assessors to apportion the uncollected amount upon the several lots and parcels of land so divided. The report of such apportionment when confirmed, shall be conclusive upon all the parties, and all the assessments thereafter made upon such lots or lands shall be according to such division. Should any special assessment

prove insufficient to pay for the improvement or work for which it was levied, and all of the expenses incident thereto, the Council may, within the limitation prescribed for such assessments, make an additional pro rata assessment to supply the deficiency; and in case a larger amount shall have been collected than was necessary, the excess shall be refunded ratably to those by whom it was paid.

Whenever an assessment for the opening, altering, grading, paving or other improvement of any street, or construction, reconstruction or repair of any sewer, or for any local improvement which has been or may hereafter be made by the city, has been or shall hereafter be set aside, annulled, declared or rendered void, or its enforcement refused or enjoined by any court of this state, or any Federal Court, having jurisdiction therein, whether directly or by virtue of any decision of such court, or when the Council shall be in doubt as the validity of such assessment or any part thereof, the Council may, by ordinance, make a new assessment or re-assessment upon the lots, blocks or parcels of land which have been benefited by such improvement to the extent of their respective and proportionate shares of the full value thereof. Such re-assessment shall be based upon the special and peculiar benefit of such improvement, to the respective parcels of land assessed, at the time of its original making, but shall not exceed the amount of such original assessment. Interest thereon from the date of delinquency of the original assessment may be added at the discretion of the Council. Such re-assessment shall be made in an equitable manner, as nearly as may be in accordance with the law in force at the time it is made. But the Council may adopt a different plan of apportionment of the benefits when in its judgment [such is] essential to secure an equitable assessment. The proceedings required by this Charter to be had prior to the making of the original assessment shall not be required to be taken or had within the intent of this section. Such re-assessment shall be made and shall become a charge upon the property upon which the same is laid, notwithstanding the omission [omission], failure or neglect of any officer, body or person to comply with the provisions of this Charter connected with or relating to such improvement and assessment and notwithstanding the proceedings [proceedings] of the Council, or any Committee thereof, or any officer, contractor or other person connected with such work may have been irregular or defective, whether such irregularity be jurisdictional or otherwise. Such re-assessment shall not be made in case of a street improvement wherein a remonstrance sufficient in law to defeat the same shall have been filed. The Council shall by resolution declare the district that will be benefited by the improvement for which the re-assessment is made and shall direct the Board of Assessors to make a new assessment or re-assessment upon the property included therein within a time to be fixed by said resolution. Upon the passage of such resolution the Auditor shall as soon thereafter a such re-assessment is prepared, give notice by

ten successive publications in the city official newspaper that such assessment is on file in his office, giving the date of the passage of the resolution directing the making of the same and the time at which the Council will hear and consider objections to said assessment by parties aggrieved thereby, and warning such persons not to depart until such re-assessment has been completed. The Auditor shall forthwith mail to the owner of each lot or part thereof or tract of land affected by such assessment, or to his agent, if the post office address of either be known to the Auditor, a notice of such (an) assessment; and if such post office address be unknown, then such notice shall be directed to such owners [owner] or agent at Astoria, Oregon. The owner or owners of any property which is assessed on such assessment, or any person having [an] interest therein, may within ten days from the last publication herein provided, file with the Auditor their objections in writing to such assessment. At the time appointed in such notice the Council shall hear and determine all objections which have been filed by any party interested. The Council shall have power to adjourn such hearing from time to time and shall have the power, in its discretion, to revise and correct, or to set aside and order the remaking of such assessment, and shall pass an ordinance approving and confirming such re-assessment as corrected and remade by it, and such decision shall be a final determination of the regularity, validity and correctness of the re-assessment, except as herein otherwise provided. When said re-assessment is completed and confirmed it shall be entered in the Docket of City Liens and shall be enforced and collected in the same manner that other assessments for local improvements are enforced and collected under this Charter and the laws governing the city. All sums paid upon the former assessment shall be credited to the property on account of which the same were, as of the date of such payment. And when it has been attempted to sell property for any assessment and such sale is found or declared void, upon the making of the re-assessment the property shall be resold and the proceeds of such sale shall be paid to the purchaser at the former void sale or his assigns. But no proceedings shall be instituted for such re-assessment unless within ten years of the passage of the resolution of intention for the making of the original work, improvement or repair.

Appeal Therefrom

Any person who has filed objections to such new assessment or re-assessment which have not been satisfied by the amendments made by the Council may appeal to the Circuit Court of the State of Oregon for the County of Clatsop from the assessment against any property owned by him, or in which he has an interest. An appeal shall be taken by serving notice of appeal within twenty days from the passage of the ordinance adopting the assessment as amended, upon the Mayor, Auditor or City Attorney, and filing the same, with the proof

of service, together with an undertaking with one or more sureties, who shall have the qualifications of sureties on appeal from the Circuit Court to the Supreme Court and if excepted [accepted] shall justify in like manner, conditioned that such appellant will pay all costs and disbursements that may be awarded against him on appeal, not exceeding five hundred dollars. Such bond and notice of appeal shall be filed within twenty days from the service of such notice in the office of the Clerk of said Circuit Court, together with a copy of the re-assessment, so far as the same affects the property of the appellant. Any number of persons may join in such appeal, and the only question to be determined therein shall be the amount of special benefits equitably to be assessed against the property of each person joining in said appeal. The jury shall view the property assessed, and its verdict shall be a final and conclusive determination of the question. On such appeal the fact that one called as a juror is a taxpayer of the city of Astoria shall not disqualify him from acting as such juror. The city shall be considered the plaintiff and such appeal shall be conducted and be heard and determined as far as practicable in the manner as an action at law.

Judgment: Cost and Fees

If the amount assessed by the jury against any appellant be not less than that fixed in the assessment appealed from, the judgment, in addition to declaring the assessment found, shall be entered against such appellant and his sureties for his proportion of the costs of such appeal. The same fees and costs shall be taxed and paid upon such appeal as are allowed in other actions.

Equitable Lien—City May Sue to Recover

No judgment, or decree, nor any act of the Council vacating a special assessment, shall destroy or impair the lien of the City upon the premises assessed for such amount of the assessment as may be equitably charged against the same or as by a regular assessment mode of proceedings might have been lawfully assessed thereon; PROVIDED, FURTHER, that in case of any irregularity of any of the proceedings for the improvement or repair of any street, or sewer and the levy of the assessment to defray costs and expenses thereof, whether such irregularities be jurisdictional or otherwise, the City of Astoria shall have power to bring suit in the circuit court of the State of Oregon for Clatsop County against the owner or owners of lot or lots, block or blocks, parcel or parcels of land upon which the costs of such improvements or repairs might or could have been charged or imposed, and which were benefited thereby, which said lands, lots, and premises shall include all lots, lands and premises to the middle of each block abutting upon the portion of the street, so improved or repaired and on each side of said portion of said street, unless a different district shall be legally described in the resolution or ordinance declaring the intention of the Council to make

the improvement, and recover the proportion of the costs of such improvement or repairs from each of said lots, lands, and premises benefited by such repairs or improvements, according to the benefits resulting to each lot or parcel of land from the improvement. In any such suit so instituted all persons whose property is, or would be, so liable for the payment of any such proportion of the assessment aforesaid, shall be joined as parties defendant in one action, and the judgment rendered therein shall be a several judgment in rem against each of said lots or parcels of land owned by each of the several defendants for its proportion of the cost of the improvement and costs and disbursements, and the lien therefor shall be decreed upon the premises. The General laws of the State of Oregon governing suits in equity, service of summons, and other process, shall apply to any such suit. [L. 1899 P. 775; Am. Spl. L. 1901 P. 788 Sec. 6; Am. Elec. May 19, 1922.]

(Note:—Sec. 80 applies also to Sewers—See Sec. 98.)

Docket of City Liens

SECTION 81. The docket of city liens is a public writing, and the original or certified copies of any matter authorized to be entered therein are entitled to the force and effect thereof, and from the date of the entry therein of an assessment upon a lot or part thereof the sum so entered is to be deemed a tax levied and a lien thereon, which lien shall have priority over all other liens or incumbrances thereon whatsoever. [L. 1899 P. 775.]

(Note:—Sec. 81 applies also to Sewers—See Sec. 98.)

Certificate of Ownership

SECTION 82. For the purpose of ascertaining who is the owner of any land, lot or part thereof, assessed for the improvement of any street or part thereof, highway, alley, road, sidewalk, tideflat, mud flat, water frontage, bulkhead, retaining wall, right-of-way, franchise, sewer, or other improvement, the City Auditor shall take the certificate of a reputable abstractor or abstract company, appointed by the Council, stating who is the owner thereof, at the date of the resolution or ordinance directing the assessment, as may appear from the records of deeds for Clatsop County. The compensation to be paid such abstractor or abstract company for such certificate or certificates, shall be fixed by the Council. [L. 1899 P. 776; Am. Elec. May 19, 1922.]

Notice for Collection of Assessment—Interest and Penalty on Overdue Assessments

SECTION 83. That immediately after the confirmation by the Council of the assessment for any improvement, the City Auditor shall deliver to the City Treasurer a certificate setting forth the title or nature of such improvement so confirmed, the number of the

assessment roll, a description of the street, highway, road, alley, sidewalk, tideflat, mudflat, water frontage, bulkhead, retaining wall, right-of-way, franchise, sewer, or other improvement, as the case may be, together with the names of the persons against whom the assessments are made, and the amounts owing by each. Upon receipt by the City Treasurer of such certificate from the City Auditor, the City Treasurer shall forthwith cause a notice to be published in the official paper of the City of Astoria for five insertions, within a period of seven successive days, which notice shall contain the number of the assessment roll, a brief description of the improvement, the names of the persons against whom the assessments are made, and the amount owing by each, as contained in such certificate, and which notice shall require the persons named therein to pay the sums due thereon from them respectively to the City Treasurer at his office within thirty days from the date of the first publication of such notice, and if paid within such thirty days no interest or other fee shall be added; and if paid within the next thirty days thereafter a penalty of two per centum will be added and collected on the sums so due; but if paid after sixty days from the day of the first publication of such notice then twelve per centum per annum will be added to and collected on the sums so due from the date of the confirmation of such assessment, and in addition thereto a penalty of five per cent of the sum so due.

And also immediately and on or before the date of the first publication of such notice, as aforesaid, the City Treasurer shall mail to each of the owners mentioned in said certificate, a notice setting forth the amount of such assessment, or installment thereof, due from him, and requiring payment thereof in the same time and on the same terms as to interest and penalty as above specified. Such notice shall be deposited in the post office of said city, postage prepaid, addressed to such persons, at their last known place of residence; and no notice need be mailed or served on any unknown owner, or on those persons whose addresses are unknown to the City Treasurer. [L. 1899 P. 776; Am. Spl. L. 1901 P. 790 Sec. 7; Am. Elec. May 19, 1922.]

(Note:—Sec. 83 applies also to sewers—See Sec. 98.) (Sec. 83 applies also to Reclamation—See Sec. 203.)

Notice of Installments Due—Interest and Penalty

SECTION 84. In all cases of assessments payable in installments, like notice as provided in Section 83, except publication, shall be given as to each installment immediately upon the same becoming due, and the provisions as to interest and penalty above shall apply to each installment in case of non-payment thereof, within the first thirty days from the time same is due. Such interest and penalty shall be computed on the sum or amount of the principal and interest of the

installment at the time the same becomes due. [L. 1899 P. 776; Am. Elec. May 19, 1922.]

(Note:— Sec. 84 applies also to Sewers—See Sec. 98.) (Sec. 84 applies also to Reclamation—See Sec. 203.)

Delinquent Assessments and Installments—Manner of Foreclosure

SECTION 85. Whenever any assessment or any installment thereof on any lot, piece or parcel of land, shall have remained unpaid in the hands of the City Treasurer for two years, he shall make a transcript of the same together with all other assessments in his hands against the said lot, piece or parcel of land, and he shall certify to the correctness of the transcript and deliver it to the City Attorney. Upon receipt of the transcript and certificate last mentioned, the City Attorney shall forthwith bring an action in the Circuit Court of the state of Oregon for Clatsop County, in the name of the city of Astoria, as plaintiff, for the foreclosure of the lien of assessments or installments thereof set forth in said transcript, and for a sale of the lands effected [affected] thereby. The City Attorney shall deliver to the City Auditor a copy of the complaint foreclosing such liens immediately upon the filing of each [such] suit.

The course of proceedings in said action down to and including the sale shall be analogous to those in an action for the foreclosure of a mortgage on real property, as provided by the laws of the State of Oregon, except as herein otherwise provided.

Any such action may include the foreclosure of a lien of an unpaid assessment or installment thereof on one or more lots, pieces or parcels of land, and may be against all persons owning the same, or unknown owners thereof; provided, that no such action shall involve more than one improvement or assessment roll, except all assessments or installments thereof against any number of tracts of land or lots belonging to the same person, or persons, may be foreclosed in the same action, irrespective of the number or character of the assessments or assessment rolls involved.

A complaint to foreclose any such unpaid assessment or installment thereof, shall contain a recital of the transcript or transcripts as issued by the City Treasurer to the City Attorney, pertaining to such unpaid assessment or installment thereof, so sued upon, and a brief description of the property, the owner thereof, if known, the amount of the assessment or installment thereof unpaid, and interest and penalty due thereon. [L. 1899 P. 776; Am. Elec. May 19, 1922.]

(Note:—Sec. 85 applies also to Sewers—See Sec. 98.) (Sec. 85 applies also to Reclamation—See Sec. 203.)

(SECTION 86. Return of warrant for collection. L. 1899 P. 776; Am. Spl. L. 1901 P. 790 Sec. 8; Repealed Elec. May 19, 1922.)

Transcript of City Treasurer Prima Facie Evidence

SECTION 87. The transcript of the City Treasurer shall be prima facie evidence of the legality of the assessment therein described, and of all the proceedings required by law to be taken before the delivery of the transcript and certificate to the City Attorney. [L. 1899 P. 777; Am. Elec. May 19, 1922.]

(Note:—Sec. 87 applies also to Sewers—See Sec. 98.) (Sec. 87 applies also to Reclamation—See Sec. 203.)

City May Bid in Property—Sale Subject to Certain Liens

SECTION 88. At every sale under foreclosure proceedings as provided by this Charter, if no bid shall be received equal to the full amount of the assessment, interest, penalties, and costs decreed against each lot or parcel of land, together with interest, costs and expenses of sale thereof, the same shall be sold to the City of Astoria for such sum, and the City Attorney is hereby directed to attend all sales and make such bids for the city.

The sale shall be made subject to all state and county taxes and liens in favor of the United States, and which are a lien at the date of the sale. [L. 1899 P. 777; Am. Spl. L. 1901 P. 792 Sec. 14; Am. Elec. May 19, 1922]

(Note:—Sec. 88 applies also to Sewers, see Sec. 98) (Sec. 88 applies also to Reclamation, see Sec. 203.)

Assignment to Lien Creditor—Redemption

SECTION 89. At any time an assessment has become a lien upon any parcel of land, and has become due and payable, and before the final sale under decree of foreclosure, any person having a lien thereon may pay such assessment with interest, and penalties, costs and expenses thereof, if any, to the proper officer of the city having the same for collection, and thereupon an assignment of such assessment shall be executed to such person so paying, and he may add the amount so paid to his lien, and enforce it as a part thereof.

Redemption from any such sale shall be made in the manner as provided by the laws of the State of Oregon governing redemption of real estate in mortgage foreclosures, except that the person redeeming such lands shall pay to the Sheriff, for the use of the purchaser at such sale, the sum of money which was bid upon the sale of said land with interest from the time of such sale, at the rate of twelve per cent per annum.

A redemption discharges the property from the lien created by the decree and the assessment. If made by the owner or his successor

in interest the estate in the property is thereby restored to the owner or his successor in interest, as the case may be, but if made by a lien creditor the amount paid for redemption shall thereafter be deemed a part of the creditor's lien and may be enforced and collected as a part thereof. [L. 1899 P. 777; Am. Elec. May 19, 1922]

(Note:—Sec. 89 applies also to Sewers, see Sec. 98) (Sec. 89 applies also to Reclamation, see Sec. 203)

Sale by City of Property Bid in—Appraisal

SECTION 90. In all cases where land has been or shall hereafter be purchased by the City of Astoria for the non-payment of any assessment or installment thereof, and the city has received a deed therefor, the City Treasurer shall immediately report this fact to the Council, at its next regular meeting.

On the first Monday in April, and the first Monday in October, in each year, at the hour of ten o'clock in the forenoon thereof, at the front door of the City Hall, the City Treasurer shall offer for sale and sell all lots, lands and premises, now owned or hereafter acquired by the city by purchase through non-payment of any assessment or installment thereof, at public auction, to the highest bidder for cash. Notice of such sale, specifying the time, place, each parcel of land or premises to be sold, manner and terms of sale, shall be made by the City Treasurer by posting two notices thereof, one at the bulletin board at the City Hall and one on the bulletin board at the Court House, which notice shall be posted twenty days immediately preceding the day of sale. The City Treasurer shall also publish a brief notice in a newspaper published in the City of Astoria, once a week for three successive weeks preceding the day of sale, which notice shall state briefly that all property owned and acquired by the city through purchase by reason of non-payment of any assessment or installment thereof, shall be sold at public auction. Such published notice shall state the time, place and terms of sale. Said sale shall be open to all persons and the same shall be fairly conducted, without preference, and without undue haste, and may be continued from day to day in order to complete said sale. Each lot, parcel of land, or other premises shall be offered separately as far as practicable.

Provided, however, that thirty days prior to the time set for such sale, or sales, the City Manager, Mayor, and City Treasurer, acting as a board, shall first fix and determine a minimum price on each separate lot, tract of land or parcel of such lands to be sold as aforesaid. That no lot, tract or parcel of land shall be sold at such sale at a price less than that so fixed and determined.

Provided, further, that said City Manager, Mayor and City Treasurer shall have the power at any time, after thirty days from the adjournment of such sale, to make such changes in said minimum price as in

their judgment they may deem best, and thereafter and up to within thirty days prior to the next public sale any person may purchase any lot, tract or parcel of land remaining unsold at the price so fixed and determined. [L. 1899 P. 777; Am. Spl. L. 1901 P. 791 Sec. 9; Am. Elec. May 19, 1922]

(Note:—Sec. 90 applies also to Sewers, see Sec. 98) (Sec. 90 applies also to Reclamation, see Sec. 203)

Establishing and Changing Grades

SECTION 91. The Council shall have authority to determine and establish the grade of all streets, avenues, alleys and public grounds within the City of Astoria, and to require improvements and buildings adjacent to, or abutting upon such streets, alleys or grounds to be made and constructed in conformity with such grades, and the Council may change or alter the grade of any street, alley or public ground, or any part thereof, whenever, in their opinion, the public convenience will be promoted thereby. Whenever a grade shall be established or altered, a record and diagram thereof shall be made in the book of Street Records in the office of the City Surveyor; PROVIDED that in the case of a street or portion thereof, which has been once fully improved as required by ordinance, no grade shall be changed on such improved street, or portion thereof, except upon a written petition of the owners of at least three-fourths (3-4) of the property abutting upon such street, or that part thereof, upon which said change of grade is proposed to be made.

If any damage shall result to any owner by change of the established grade of any street, alley, sidewalk, wharf or landing, the Council may, in their discretion, levy and collect the amount thereof by special assessment upon the lots, lands and premises benefited thereby, and therewith, pay the same, but the City of Astoria shall incur no liability by reason of anything in this section contained.

Before the grade of any street, avenue or alley shall be established or altered, ten day's notice thereof must be given by a publication in a newspaper published in the City of Astoria, and such notice must be given by the Auditor and Police Judge by order of the Common Council, and must specify, with convenient certainty, the street, avenue or alley, or part thereof, for which the grade is proposed to be established or altered.

Within ten days from the final publication of such notice, the owners of one-half of the property abutting upon such street, avenue, or alley, or part thereof, as the case may be, may make and file with the Auditor and Police Judge, a written remonstrance against the proposed grade or alteration, and thereupon, the same shall not be made or any further proceedings taken therein.

If no such remonstrance be made and filed, the Council at its earliest convenience thereafter and within six months from the final publication of the notice hereinbefore specified, may, by ordinance, establish the proposed grade.

That the grade upon the portions of streets hereinafter mentioned be, and the same is hereby established at the hereinafter mentioned elevations above the base of grades, as established by Ordinance No. 71 of the City of Astoria, entitled, "An Ordinance to Establish a Base of Grades for the Streets of Astoria." Passed the Board of Trustees June 24, 1872.

Astor Street at its intersection with 2nd Street at 22 feet above the base of grades.

Astor Street at its intersection with 3rd Street at 22 feet above the base of grades.

Astor Street at its intersection with 4th Street at 21 feet above the base of grades.

Astor Street at its intersection with 5th Street at 21 feet above the base of grades.

Astor Street at its intersection with 6th Street at 21 feet above the base of grades.

Astor Street at its intersection with 7th Street at 21 feet above the base of grades.

Astor Street at its intersection with 8th Street at 21 feet above the base of grades.

Astor Street at its intersection with 9th Street at 21 feet above the base of grades.

Bond Street at its intersection with 5th Street at 23 feet above the base of grades.

Bond Street at its intersection with 6th Street at 22 feet above the base of grades.

Bond Street at its intersection with 7th Street at 22 feet above the base of grades.

Bond Street at its intersection with 8th Street at 22 feet above the base of grades.

Bond Street at its intersection with 9th Street at 22 feet above the base of grades.

Bond Street at its intersection with 10th Street at 22 feet above the base of grades.

Bond Street at its intersection with 11th Street at 22 feet above the base of grades.

Bond Street at its intersection with 12th Street at 22 feet above the base of grades.

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Bond Street at its intersection with 14th Street at 22 feet above the base of grades.

Commercial Street at its intersection with 8th Street at 23 feet above the base of grades.

Commercial Street at its intersection with 9th Street at 23 feet above the base of grades.

Commercial Street at its intersection with 10th Street at 23 feet above the base of grades.

Commercial Street at its intersection with 11th Street at 23 feet above the base of grades.

Commercial Street at its intersection with 12th Street at 23 feet above the base of grades.

Commercial Street at its intersection with 13th Street at 23 feet above the base of grades.

Commercial Street at its intersection with 14th Street at 23 feet above the base of grades.

Commercial Street at its intersection with 15th Street at 23 feet above the base of grades.

Commercial Street at its intersection with 16th Street at 23.5 feet above the base of grades.

Commercial Street at its intersection with 17th Street at 24 feet above the base of grades.

Duane Street at its intersection with 9th Street at 26 feet above the base of grades.

Duane Street at its intersection with 10th Street at 25 feet above the base of grades.

Duane Street at its intersection with 11th Street at 23.75 feet above the base of grades.

Duane Street at its intersection with 12th Street at 23.75 feet above the base of grades.

Duane Street at its intersection with 13th Street at 24.5 feet above the base of grades.

Duane Street at its intersection with 14th Street at 25.5 feet above the base of grades.

Duane Street at its intersection with 17th Street at 30 feet above the base of grades.

Duane Street at its intersection with 18th Street at 26 feet above the base of grades.

Duane Street at its intersection with 19th Street at 26 feet above the base of grades.

Duane Street at its intersection with 20th Street at 26 feet above the base of grades.

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Duane Street at its intersection with 21st Street at 26 feet above the base of grades.

Duane Street at its intrestetion with 22nd Street at 26 feet above the base of grades.

Duane Street at its intersection with 23rd Street at 26 feet above the base of grades.

Exchange Street at its intersection with 10th Street at 30 feet above the base of grades.

Exchange Street at its intersection with 11th Street at 25 feet above the base of grades.

Exchange Street at its intersection with 12th Street at 25 feet above the base of grades.

Exchange Street at its intersection with 14th Street at the North side thereof, 36 feet above the base of grades and at the South side thereof, 37.5 feet above the base of grades.

Exchange Street at its intersection with 18th Street at 28 feet above the base of grades.

Exchange Street at its intersection with 19th Street at 28 feet above the base of grades.

Exchange Street at its intersection with 20th Street at 28 feet above the base of grades.

Exchange Street at its intersection with 21st Street at 28 feet above the base of grades.

Exchange Street at its intersection with 22nd Street at 28 feet above the base of grades.

Exchange Street at its intersection with 23rd Street at 28 feet above the base of grades.

Franklin Avenue at its intersection with 18th Street at 40 feet above the base of grades.

Franklin Avenue at its intersection with 19th Street at 49 feet above the base of grades.

Franklin Avenue at its intersection with 20th Street at 52 feet above the base of grades.

Franklin Avenue at its intersection with 21st Street at 55 feet above the base of grades.

Franklin Avenue at its intersection with 22nd Street at 58 feet above the base of grades.

Franklin Avenue at its intersection with 23rd Street at 62 feet above the base of grades.

Grand Avenue at its intersection with 18th Street at 61 feet above the base of grades.

Grand Avenue at its intersection with 19th Street at 73 feet above the base of grades.

Grand Avenue at its intersection with 20th Street at 76 feet above the base of grades.

Irving Avenue at its intersection with 18th Street at center thereof, 185 feet above the base of grades, and at the East side thereof, 184.1 feet above the base of grades.

Irving Avenue at its intersection with 19th Street at 175.1 feet above the base of grades.

Jerome Avenue at its intersection with 18th Street at 245.0 feet above the base of grades.

Between the points designated upon the above portions of the above named streets, the grade or slope shall be gradual, and the grade of the intersecting streets running North and South shall be at the elevations mentioned at the above mentioned points of intersection.

That said grades as above designed [designated] and established may be changed or re-established within the discretion of the Council upon the petition of the owners of three-fourths (3-4) of the property abutting upon said portions of streets so desired to be changed or re-established, as hereinbefore provided. [L. 1899 P. 777; Am. Elec. Dec. 12, 1906; Am. Elec. Dec. 14, 1910; Am. Elec. Dec. 11, 1912]

(Note:—See Sec. 45 Par. 1)

(SECTION 92. Improving street intersections, L. 1899 P. 778; Repealed Spl. L. 1901 P. 792, Sec. 13)

(SECTION 93. What title conveyed by sale. L. 1899 P. 778; Repealed Elec. May 19, 1922)

(SECTION 94. Discharge from assessment. L. 1899 P. 778; Repealed Elec. May 19, 1922)

Bidding on Improvements—Contracts—Bonds—City May Improve By Direct Employment of Labor

SECTION 95. All street, local or public improvements may be made either by direct employment of necessary labor and purchase of necessary materials and supplies, with separate accounting as to each improvement so made, or by contract duly let, after competitive bidding, either for a gross price, or upon a unit basis for the improvement or by contract containing a guaranteed maximum and stipulating that payment shall be made within such maximum of the costs of labor and materials plus fixed percentage of profit to the contractor. The Council, by ordinance, shall determine by which of the foregoing methods improvements shall be made. Provided, that no improvement shall be made through the direct employment of labor and purchase of materials without the Council first advertising for bids for such improvement, and in the event such bids are rejected, then the costs of such improvement assessed against the property included

within the assessment district shall not be greater than the amount of the lowest bona fide bid so rejected. Contracts for all such improvements shall be let to the lowest responsible bidder, for either the whole work necessary to complete the proposed improvement, or such subdivision thereof as will not materially conflict with the completion of the remaining portions, but no bid for a fractional part of any class of work, chargeable to any block, fronting on the street to be improved, shall be received. The Council shall provide for the rejection of any or all bids, when deemed unreasonable. And the Council must provide for the taking of surety by bond, for the faithful performance of any contract for any such improvement let under its authority, and the provisions thereof may be enforced by an action in the name of the City. [L. 1899 P. 779; Am. Elec. Mar. 22, 1916; Am. Elec. May 19, 1922]

(Note:—Sec. 95 applies also to Sewers, see Sec. 98)

Special Assessment Funds

SECTION 96. All money paid or collected on assessments for the improvement of any street or other improvement, shall be kept as a separate fund, and in no wise used for any other purpose. [L. 1899 P. 779; Am. Elec. May 19, 1922]

(Note:—Sec. 96 applies also to Sewers, see Sec. 98)

Petition of Owners to Establish Grade or Improve Streets

SECTION 97. The proceedings authorized by this chapter for the establishment or alteration of a grade, or the improvement of a street or part thereof, may be taken and had without giving the notice prescribed in Section 73, whenever the owner or owners of two-thirds of the adjacent property shall, in writing, petition the council therefor. [L. 1899 P. 779]

(Note:—Sec. 97 applies also to Sewers, see Sec. 98)

(Note:—Section 73, referred to above was formerly Section 76, L. 1891 and has been in effect repealed by substituting the new matter comprising the present Section 73. See also Sec. 91.)

Power of Council to Construct Sewers—Assessments Therefor—May Condemn Right of Way

SECTION 98. The council shall have power and authority to locate, establish, lay down and construct and maintain all such sewers and drains as in their judgment may be necessary, either for general sewerage or drainage purposes or to prevent land from sliding, and to that end, may by ordinance or resolution establish sewer or drainage district, to be composed of such lands as in their judgment may be benefited thereby, and to provide for the payment of all the costs and expenses of such sewer or drains by assessment upon the property in such districts in proportion to the benefits received, substantially

in the manner provided in this charter for the establishment of street improvement districts and the assessment of the costs of such improvement upon the property benefited thereby; and the council shall not only have power and authority to establish such sewers and drains in the streets of the city, but shall have full power and authority when they deem it necessary to establish and lay down such sewers and drains through lots and blocks or other private property in the city, and to that end are hereby authorized and empowered to condemn and appropriate so much of such private property, or an easement of right of way over the same, for the purpose of laying and maintaining such sewer or drain as they may deem necessary for that purpose, and substantially in the manner now provided in this charter for the condemnation of land for general street purposes; PROVIDED, that all costs of such condemnation and appropriation shall be considered part of the cost of such sewer or drain, and shall be included in the assessment made on the property benefited by such sewer or drain. [L. 1899 P. 779.]

(Note:—For procedure see Sec. 44 Subd. 11; Sec. 72; Sec. 74 to 85; Sec. 87 to 90; Sec. 95 to 97; Sec. 157 and Sec. 188.)

Cost of Establishing or Changing Grade Paid From General Fund—"General Fund" Defined

SECTION 99. The cost of establishing or altering the grade of any street or part thereof shall be paid out of the general fund of the city. The term "general fund," as used in this chapter, includes any fund raised by special tax for the purpose in connection with which such term is used. [L. 1899 P. 780.]

(SECTION 100. Surplus on sale. L. 1899 P. 780; Repealed Elec. May 19, 1922.)

(SECTION 101. Deed—what to specify. L. 1899 P. 780; Repealed Elec. May 19, 1922.)

(SECTION 102. Who deemed owner. L. 1899 P. 781; Repealed Elec. May 19, 1922.)

Owner May Grade Street

SECTION 103. Whenever the grade of any street has been established the common council may authorize the owner or owners of any property thereon to cut down or fill up such street in front of such property according to such grade, at the expense and cost of such owner. [L. 1899 P. 781.]

Owner May Not Grade After Assessment Made—Council to Control Material

SECTION 104. The authority mentioned in the last section cannot be given after an assessment has been made for the improvement of a

street in front of such property, and in giving such authority the council may impose such terms and conditions thereon as may be necessary to secure the deposit of excavations upon any part of such street as may be required to be filled up. [L. 1899 P. 781.]

CHAPTER IX. OF THE OPENING, LAYING OUT, WIDENING AND VACATION OF STREETS

Council Has Authority to Open and Vacate Streets

SECTION 105. The common council of the city of Astoria has power and authority within the city whenever it deems it expedient to open, lay out, establish, widen, straighten, close, vacate and extend the streets and alleys, and to appropriate private property for that purpose; PROVIDED, that no street or part thereof shall be vacated or abolished against the objections of the owner of the property abutting upon said street or part of street without due compensation being made to him for any damage occasioned to his property thereby; such compensation shall be assessed and paid in the manner provided for assessments and payments, as in the case of street improvements, and the amount of damage may be determined in the same manner as damages are determined in the case of laying out of streets. [L. 1899 P. 781.]

Surveyor To Survey Opening of Street—Adoption of Report by Council

SECTION 106. Whenever the council shall deem it expedient to lay out and establish or widen a street or alley it shall direct the city surveyor to survey such street or alley or such widened street or alley, as the case may be, and to mark the boundaries thereof, and to make his report containing a plat of the survey of each [such] street or alley, and a full and perfect description of such street or alley and the boundaries thereof, and of the portion of each lot or part to be appropriated for such street or alley, to the council; which report when so made, if satisfactory to the council, shall be adopted by an ordinance embodying such report. The city surveyor shall make such survey and report within twenty days from the time the same is ordered, unless the council shall grant further time. [L. 1899 P. 781.]

(Note:—See Sec. 45 Par. 1.)

Council to Appoint Viewers—Notice of Meeting of Viewers

SECTION 107. Thereafter, and within thirty days of the adoption of such report, the council shall appoint three dis-interested freeholders of the city of Astoria, no kin to any owner or person interested

in any property to be appropriated, possessing the qualifications of jurors of the circuit court of the state of Oregon for Clatsop county, to view such street and make an assessment of the damages and benefits, as provided in the next following section of this act; and shall assign a day and place for them to meet; and shall cause ten days' notice to be given by publication in some newspaper published in the city of Astoria of the appointment of such viewers, with their names and the time and place appointed for them to meet, and specifying with convenient certainty the boundaries and terminus of the proposed street or alley to be laid out, established or widened, as the case may be, and the boundaries and description of the private property to be apportioned [appropriated] for such purpose. [L. 1899 P. 782.]

**Viewers to Assess Benefits and Damages—Report to Council—
Lien for Assessments**

SECTION 108. The Auditor and Police Judge shall immediately and at least five days before the time assigned for such meeting, cause such viewers to be notified of their appointment and the time and place of such meeting, and such viewers shall meet at the time and place designated, and take an oath faithfully to discharge the duties assigned them, and shall then, or on any other day to which they may adjourn, not exceeding one week, proceed to view the proposed street or alley, and to assess and determine how much less valuable, if any, any lands, tenements, hereditaments, or premises, or any part thereof, through or over which, or any part of which, such street or alley is to be laid out, established, or widened, will be rendered by the laying out, establishing or widening of such street or alley; and if several parties have different estates or interests in any lot, or parts thereof, or any improvements thereof, the damages of which each of said persons will respectively sustain, according to the rules of law, in suits of partition, and shall also make a just and equitable estimate and assessment of the value of the benefits and advantages of such street, or alley, so to be laid out, established or widened, as the case may be, to the respective owners, lessees, or other persons interested in any lands, tenements, hereditaments, and premises, any part of which is required for the opening, laying out, or widening of such street or alley, and of the value of the benefits and advantages of such street or alley in excess of the damages which any such owner lessee, or other person interested, will sustain by reason of the opening, laying out, establishing or widening of such street or alley, and of the value of the benefits and advantages of such street or alley, to the respective owners, lessees, or other persons interested in any lands, tenements hereditaments, and premises, not required for the purposes of laying out, opening, establishing and widening any such street or alley, but fronting on or to the front thereof, or being at, and within half the distance of the next street

or alley thereto, and also within one hundred feet of the boundary of the street or alley to be laid out, opened, established or widened, on each side thereof, and which the said viewers shall deem to be benefited by such street or alley, in respect to the respective estates and interest of such owners, lessees, and other persons interested in any lands, tenements hereditaments, and premises, and shall report such assessment to the next session of the Council. The respective sums so assessed by said viewers on the owners, lessees, or other persons interested in the lands tenements, hereditaments, or premises, deemed by the said viewers to be benefited by the laying out, opening establishing or widening of any such street or alley, under the provisions of this Act shall be a lien or charge on the estate and interest of the respective owners, lessees, and other persons interested in such lands, tenements, hereditaments and premises for and on account of which the said respective sums shall be assessed by said viewers upon the said respective owners, lessees, or other persons interested therein and shall be entered in the docket of the City Liens, in like manner as an assessment for street improvements in said City of Astoria; and the said owners, lessees and other persons interested as aforesaid shall, moreover, be respectively and severally liable to pay such assessment, and in case no appeal is taken as to any such assessment benefits the said assessment shall be paid to the City Treasurer of the City of Astoria within ten days from the expiration of the time limited for appeal or the same shall be deemed delinquent and, thereupon, whenever the council so order, shall be collected in like manner as provided for the collection of delinquent street assessments by the act incorporating the City of Astoria. All moneys arising from such assessments or benefits shall be kept in a separate fund, to be applicable to the satisfaction of the damages assessed to the owners and other persons interested in property taken for the purpose of laying out, opening, establishing, or widening the street or alley in which such benefits are assessed. The liability to pay a tax, except the benefits provided in this Act, to satisfy any such assessment or damages, shall not disqualify any person from serving as such viewer. [L. 1899 P. 782; Am. Elec. Dec. 12, 1906.]

(Note:—See Sec. 54, Subd. p, Par. 3.)

View May Be Set Aside—Compensation of Viewers

SECTION 109. If it shall appear to the council that the damages assessed are unreasonable or that the benefits assessed are insufficient in any respect, the council may set aside such view and order another view under the same regulations as provided in [the] case of the first view. The viewers shall receive as compensation for their services the same fees as referees in courts of record, to be paid by the city of Astoria. [L. 1899 P. 784.]

Appropriation for Damages

SECTION 110. If no further view be ordered, the council shall at the expiration of the time hereinafter limited for appeal if no appeal shall be taken, and immediately after judgment is rendered if an appeal is taken, make an appropriation for damages and costs, as the case may be, assessed by such viewers or by the jury on appeal against the city, and shall order warrants drawn upon the treasurer, payable out of a fund to be provided for that purpose, for the amount of damages and costs assessed to the owner or owners or other parties interested in each lot or part thereof, or of the improvements thereon, in favor of the owner or owners or other persons interested; and as soon thereafter as the full amount of such appropriation shall be in the city treasury subject to such warrants, and the amounts respectively assessed shall be tendered to the parties entitled to the same, such property shall be deemed appropriated for the purpose of such street or alley, and not otherwise; PROVIDED, that no process of any court shall issue to compel any appropriation of damages on [or] the issuing of warrants for the same. [L. 1899 P. 784.]

Appeal To Circuit Court

SECTION 111. The owner or owners of any lot or part thereof sought to be appropriated as aforesaid, or of the improvements thereon, or any person having an interest therein, or any person against whom an assessment of benefits has been made, may appeal to the circuit court of the state of Oregon for Clatsop county from such report and assessment of damages and benefits. Any number of persons may join in such appeal, and the only question to be determined by such appeal shall be the question of damages and benefits. [L. 1899 P. 784.]

Appeal—How Taken

SECTION 112. An appeal shall be taken by serving a notice of appeal upon the City Manager and City Attorney, and filing an undertaking with one or more sureties, who shall justify in the same manner as bail upon arrest in civil action, conditioned that the appellant will pay all costs and disbursements that may be awarded against them on appeal, not exceeding three hundred dollars, together with proof of service of such notice in the office of the Clerk of the Circuit Court of the State of Oregon, for Clatsop County within twenty days from the adoption of the report of the viewers of [by] the Council. [L. 1899 P. 785; Am. Elec. May 19, 1922.]

Jury To View Street

SECTION 113. Such appeal shall be deemed and be heard and determined and the judgment thereon enforced, so far as practicable, in the same manner as an action at law. The jury shall view the proposed street or alley, the property to be appropriated and the property

against which benefits are assessed; and proof of damages and benefits may be introduced by the city and the appellants. The city shall be considered the plaintiff. [L. 1899 P. 785.]

Jury To Assess Damages and Benefits

SECTION 114. The jury shall assess and determine by their verdict how much less valuable, if any, each lot or part thereof with the improvements may be rendered by the opening, laying out, establishing or widening such street or alley, and in case of persons having different estates and separate interests in any lot or part thereof or of the improvements thereon shall apportion the same between them; and shall also assess and determine the value of the benefits and advantages, if any, of such street or alley so to be opened, laid out, established or widened, as the case may be, to the respective owners, lessees and other persons interested in any lands, tenements, hereditaments and premises any part of which is required for the opening, laying out, establishing or widening of such street or alley, in excess of the damages which the owner, lessee or other person will sustain by the opening, laying out, establishing or widening of any such street or alley; and assess and determine the value of the benefit and advantage of such street or alley to the respective owners, lessees or other persons interested in any lands, tenements, hereditaments and premises not required for the purpose of laying out, opening, establishing or widening any such street or alley but fronting on or to front thereon, or being at or within half the distance of the next street or alley thereto, and also within one hundred feet of the boundary of the street or alley to be laid out, opened, established or widened, on each side thereof, and which the jury shall deem to be benefited by such street or alley in respect to the respective estates and interest of said owners, lessees and other persons respectively so interested in any lands, tenements, hereditaments and premises; but the issues, testimony and verdict upon such appeal shall be confined to the parties appealing, and the jury shall not reassess any damages or benefits unappealed from. The verdict of the jury shall be a final and conclusive determination of the matter of such assessment. On an appeal from the report and assessment of damages and benefits, the fact that one called as a juror is a taxpayer within the city of Astoria shall not disqualify him from sitting as such juror. [L. 1899 P. 785.]

Amount of Damages

SECTION 115. If the appellant, or any of them, fail to recover greater damages or to receive a more favorable assessment of benefits, as the case may be, than were assessed by the viewers, judgment shall be rendered against them and their sureties on the appeal bond for their proportion of costs of such appeal, to be paid pro rata according to the amount of damages and benefits assessed; and, in all cases against the appellant appealing from an assessment of bene-

fits, for the amount of benefits assessed by the jury against them; and against the city, for the damage assessed to the owner or other persons interested in any lands, tenements, hereditaments and premises, and for the costs of such appeal that are not adjudged against the appellant. [L. 1899 P. 786.]

Costs and Fees Allowed

SECTION 116. The same costs and fees shall be taxed and paid upon such appeal as are allowed in other actions. [L. 1899 P. 786.]

Powers of Council—How Exercised

SECTION 117. The power and authority granted to the council by this chapter is granted to the municipal corporation of the city of Astoria, to be exercised according to the provisions of the act creating such corporation, unless otherwise specially provided therein. The power to approve and adopt the survey of any street or alley, or to appropriate money, as herein granted, must be exercised by ordinance, and not otherwise. [L. 1899 P. 786.]

CHAPTER X. OF THE POLICE FORCE

Organization—Appointments—Regulations

SECTION 118. The police force of the City of Astoria shall consist of a Chief of Police and all necessary captains of police, detectives and regular and special policemen and clerks.

The Chief of Police shall be appointed by the City Manager of the City of Astoria, subject to the approval of the Common Council, and shall hold office during the pleasure of the City Manager.

All captains of police, detectives, regular and special policemen and clerks shall be appointed by the Chief of Police by and with the consent and approval of the City Manager, to be approved by the Common Council.

The City Manager may remove and suspend the Chief of Police or any member of the police force, for any cause which he may deem sufficient, and upon the removal or suspension of any such officer, the city Manager shall immediately report the same to the Council.

The Chief of Police shall make all necessary rules and regulations in the government of the police department, and shall report the same for approval to the City Manager, and when approved shall have full force and effect. [L. 1899 P. 786; Am. Elec. Dec. 12, 1906; Am. Elec. Dec. 14, 1910; Am. Elec. Dec. 9, 1914; Am. Elec. May 19, 1922.]

Policemen to File Bond

SECTION 119. In addition to the bond required of the Chief of Police, each Captain of Police, detective, regular and special policeman, and clerk, shall file a good and sufficient bond in the sum of \$500.00, with sureties to the satisfaction of the Mayor, for the faithful performance and discharge of his duties, and the payment of any damage that may be adjudged against him by any tribunal for the illegal arrest, imprisonment, or injury by him to any person. [L. 1899 P. 787; Am. Elec. Dec. 14, 1910.]

(SECTION 120. Police force under authority of Mayor. L. 1899 P. 787; Am. Elec. Dec. 14, 1910; Am. Elec. Dec. 9, 1914; Repealed Elec. May 19, 1922.)

Chief of Police—Powers—Duties—Bond—Oath

SECTION 121. The Chief of Police is a peace officer, and must execute all process issued by the Municipal Judge, or directed to him by any magistrate of this State. He may make arrests for a breach of the peace or commission of a crime within the limits of the city, with or without a warrant, as a peace officer may do under the laws of the State. He must exercise a vigilant control over the peace and quiet of the city. He is keeper of the city prison, or house of correction, unless otherwise prescribed by the Common Council. He must attend regularly upon the sittings of the police court, and the meetings of the Common Council. He shall have control of Captains of Police and Policemen and detectives, when they are on duty, and shall see that the city ordinances and the rules, orders, and regulations of the Common Council are observed and enforced. Before entering upon the duties of his office he shall file a bond in such sum as the Common Council may require and subscribe and take an oath that he will faithfully perform the duties of Chief of Police during his continuance in office, and will account for and pay over all moneys that may come into his hands by virtue of his office. [L. 1899 P. 788; Am. Elec. Dec. 14, 1910; Am. Elec. May 19, 1922.]

(SECTION 122. Fees of Chief of Police. L. 1899 P. 788; Repealed Elec. May 19, 1922.)

Policemen—Powers and Duties—Oath

SECTION 123. The captain of police and policemen shall possess the same power and authority as the chief of police in making arrests and serving process; they must exercise a vigilant control over the peace and quiet of the city. Every policeman shall before entering upon his duties take and subscribe an oath that he will faithfully perform the duty for which he was appointed. [L. 1899 P. 788.]

CHAPTER XI. MISCELLANEOUS PROVISIONS

Contracts Authorized by Ordinance

SECTION 124. The city of Astoria is not bound by any contract, or in any way liable thereon, unless the same is authorized by city ordinance and made in writing and by order of the council, signed by the auditor and police judge or some other person duly authorized on behalf of the city. But an ordinance may authorize any officer or agent of the city, naming him, to bind the city without a contract in writing for the payment of any sum of money not exceeding \$100. [L. 1899 P. 789.]

(Note:—Section 124 is, in part, impliedly repealed by Section 44, Subd. 7 and 8.)

Road Taxes

SECTION 125. All road taxes collected upon property within the limits of the City of Astoria, and all poll taxes collected upon persons residing therein, shall be turned over to the city in the same manner as other taxes [collected] for it. And shall be expended exclusively upon the repair of the roads, streets, highways and alleys of said city, and shall be kept in a separate fund, known as the "Street repair fund." [L. 1899 P. 789; Am. Spl. L. 1901 P. 791 Sec. 10.]

Money Drawn From Treasury—How

SECTION 126. No money shall be drawn from the treasury but in pursuance of an appropriation for that purpose made by ordinance; and an ordinance making an appropriation of money must not contain a provision upon any other subject, and if it does such ordinance as to such provisions shall be void, and not otherwise. [L. 1899 P. 789.]

Salary of Mayor and Commissioners

SECTION 127. The Mayor of the City of Astoria shall receive a salary of \$600.00 per year and each Commissioner a salary of \$400.00 per year, from which shall be deducted by the City Auditor the sum of \$10.00 for each time the Mayor or a Commissioner shall be absent from any regular meeting of the Council. [L. 1899 P. 789; Am. Elec. Dec. 12, 1906; Am. Elec. May 19, 1922.]

Privilege of Councilmen in Debate—Not Liable for Damages Account Defective Streets—City Not Liable When

SECTION 128. A member of the Common Council for words uttered in a debate therein shall not be questioned in any other place and no member of the Common Council shall in any manner be liable for any damages resulting from a defective condition of any street, alley or highway thereof.

The City of Astoria shall in no case be liable for any damages resulting from a defect in any street, alley or highway thereof, unless such person claiming such damages shall within thirty days from the time of the accident or injury file with the City Auditor, under oath a statement of his or her claim, stating the time and place of the accident or injury and the nature thereof, and the persons present, if any. [L. 1899 P. 789; Am. Elec. May 19, 1922.]

(Note:—Requirement as to filing claims within certain time upheld in *Sprague v. Astoria*, 100 Or. 298, 195 Pac. 789.)

**Privilege of Councilmen in Debate—No Liability for Certain Damages
Salary of Councilmen**

SECTION 129. A member of the Common Council for words uttered in a debate therein shall not be questioned in any other place and no member of the Common Council shall in any manner be liable for any damages resulting from a defective condition of any street, alley or highway thereof, and the City of Astoria shall in no case be liable for any damages resulting from a defect in any street, alley or highway thereof, unless such persons claiming such damages shall within thirty days from the time of the accident or injury file with the Auditor and Police Judge under oath a statement of his or her claim, stating the time and place of the accident or injury and the nature thereof and the persons present, if any; and the Mayor shall receive a salary of Six Hundred Dollars (\$600.00) per year and each member of the Common Council a salary of Two Hundred Dollars (\$200.00) per year, from which shall be deducted by the Auditor and Police Judge the sum of Five Dollars (\$5.00) for each time that the Mayor or a member of the Council shall be absent from any regular meeting of the Council. [L. 1899 P. 789; Am. Spl. L. 1901 P. 791, Sec. 11; Am. Elec. Dec. 12, 1906; Am. Elec. Dec. 14, 1910]

(Note:—Section 129 has been superseded by Sections 127 and 128 but is printed in this compilation since such section was not specifically repealed. See also note to Section 128)

Officers to Continue in Office

SECTION 130. The present Mayor and Council of the City of Astoria and all officers thereof shall continue in office until their successors are elected, qualified and appointed, and all ordinances of the city now in force shall continue in force until repealed, by the Council, except wherein the same may be in conflict with the Charter of the City of Astoria. [L. 1899 P. 789; Am. Elec. May 19, 1922]

Fiscal Year—Tax Limit

SECTION 131. The fiscal year of the city of Astoria shall commence on the first day of January, and end on the last day of December of each year, and during any such year the rates of general and

special taxes levied must not exceed in the aggregate two per centum. [L. 1899 P. 790]

(Note:—That portion of Sec. 131 which pertains to taxes has probably been repealed by implication. See Sec. 38 Subd. 1)

Limit of Indebtedness—\$800,000 Refunding Bonds

SECTION 132. The net indebtedness of the City of Astoria shall never exceed the sum of \$1,000,000.00 and any debt or liability incurred in violation of this section, except as herein otherwise provided in this act, whether by borrowing money, loaning the credit of the city, or otherwise, shall be null and void and of no effect. In estimating the indebtedness of the city provided for in this section, as well as other indebtedness provided for in this act no assets or resources shall be taken into consideration, excepting real estate with the improvements thereon, at the amount the same shall have cost the city, taxes due the city and street assessments due the city and money in the hands of the Treasurer of the City of Astoria, and all warrants issued and liabilities incurred, whether for salaries of officers, or for ordinary expenses of the city, whether incurred voluntarily or involuntarily, except where there is cash on hand accumulated in the fund for the payment thereof, and excepting warrants issued upon a special fund for the improvement of streets, where the fund is to be raised by assessment upon property to defray the costs and expenses of improving such streets, shall be taken and considered to be part of said indebtedness, and the City of Astoria is hereby authorized to issue bonds in the sum of \$800,000.00 to fund outstanding city warrants, which said sum shall be taken and considered to be a part of the \$1,000,000.00 limit of indebtedness herein provided for. [L. 1899 P. 790; Am. Spl. L. 1901 P. 792 Sec. 15; Am. Elec. Dec. 12, 1906; Am. Elec. Mar. 22, 1916; Am. Elec. May 19, 1922.]

(Note:—Validity of election of Mar. 22, 1916, authorizing issue of \$50,000 refunding bonds, established in *Staples v. Astoria*, 81 Or. 99, 158 Pac. 518)

Assessment Presumed to be Regular

SECTION 133. In any suit, action or proceeding in any court, concerning any assessment of property or levy of taxes authorized by this act, or the collection of such tax or proceeding consequent thereon, such assessment, levy, consequent proceeding and all proceedings connected therewith, shall be presumed to be regular and duly done or taken, until the contrary is shown; and when any proceeding, matter or thing is by this act committed or left to the discretion or judgment of the council, such discretion or judgment when exercised or declared is final, and cannot be reversed or called in question elsewhere. [L. 1899 P. 790]

(SECTION 134. Deed for property sold. L. 1899 P. 790; Am. Spl. L. 1901 P. 791 Sec. 12; Repealed Elec. May 19, 1922)

(SECTION 135. Compensation of Mayor and Councilmen. L. 1899 P. 790; Repealed Spl. L. 1901 P. 792 Sec. 13)

Real Property to be Sold for U. S. Gold or Silver Coin

SECTION 136. Real property, when sold for or to satisfy a delinquent assessment or tax, must be sold for United States gold or silver coin, and not otherwise; and any one applying or seeking to redeem property so sold as in this act provided must pay or offer to pay the sum necessary therefor in such coin, and not otherwise. [L. 1899 P. 791]

Property to be Assessed—How

SECTION 137. All property, real and personal, subject to taxation for municipal purposes shall be assessed at the actual cash value thereof, and real property not laid off into lots at the time of making any assessment shall be assessed at its actual cash value per acre or fraction thereof. [L. 1899 P. 791]

Ordinances to Remain in Force

SECTION 138. All city ordinances heretofore passed by the municipal authorities of the city of Astoria, in force when this act takes effect, shall be and remain in full force after this act takes effect, and thereafter until repealed by the council; all rights vested or liabilities incurred under the act of incorporation of the city of Astoria or any city ordinance, when this act takes effect, shall not thereby be lost, impaired or discharged. [L. 1899 P. 791.]

Ordinances to be Published

SECTION 139. The council, as soon as practicable after this act takes effect, must provide by ordinance for the codifying and publishing in book or pamphlet form of all ordinances or parts thereof then in force, and for the publishing in like form annually thereafter the city ordinances for the current year. [L. 1899 P. 791]

**CHAPTER XII.
OF WATER WORKS AND ELECTRIC
LIGHT PLANTS**

**Power to Maintain Water Works and Electric Light Plants
General Powers—Eminent Domain**

SECTION 140. The city of Astoria, hereinafter referred to as "the city", is authorized and empowered to contract or purchase, keep conduct and maintain water works therein of a character and capacity sufficient to furnish the city and the inhabitants thereof with an abundance of good, pure and wholesome water for all uses and

purposes necessary for the convenience and well being of the same; and also one or more electric light plants, to be operated by water or other power, for the purpose of supplying the city and the inhabitants thereof with an abundance of electric lights for all uses whatever, and is hereby authorized and empowered to supply the city and inhabitants thereof with electric lights; and to that end may acquire, by purchase or otherwise, and own and possess such real and personal property within and without the limits of the city as in the judgment of the persons herein authorized to construct, purchase, conduct and maintain the same may be deemed necessary and convenient; and for such purpose may also issue bonds running for a period of not less than twenty nor more than fifty years, and dispose of the same as hereinbefore provided; PROVIDED, that nothing in this section shall be construed to limit, restrict or cut off any power or authority heretofore given the council of said city, and the rates for all water or light furnished the city under the provisions of this section shall be such as may be mutually agreed upon by the said council and the hereinafter mentioned commission. In case the common council of said city shall at any time desire to acquire for any purpose herein mentioned any real or personal property or franchise, or any right of way upon or over any land or lands without or within the limits of the city, or to acquire the right to construct and maintain any reservoir, ditch, aqueduct, flume, water pipes or water pipe line over, across or upon any such land or lands, or shall desire to acquire any property, real or personal, water, watercourse or water and riparian rights within or without said city, and the water commission through its chairman and secretary shall certify to such common council that it has been unable to agree with the owner or owners thereof as to the amount to be paid for the appropriation thereof, the said common council shall by ordinance direct an action to be instituted in the name of the city of Astoria, in the circuit court of the state of Oregon for Clatsop county, to condemn and appropriate to the use of such city such property, franchise, right of way, water, watercourse, water and riparian rights; and it shall not be necessary in order to maintain any such action to submit any question to a vote of the taxpayers, inhabitants or voters of the city. Such action shall be commenced and prosecuted in the manner prescribed by the general laws of the state of Oregon providing and regulating the mode of proceeding to appropriate land by private corporations. [L. 1899 P. 791]

(Note:—Water Commission succeeded by Common Council. See Sec. 204)

Commissioners

SECTION 141. The power and authority given to the city by section 140 hereof, to construct or purchase water works and electric light plants and issue and dispose of bonds therefor, shall be exercised as hereinafter provided by the following named substantial taxpayers and bona fide residents thereof, namely: J. Q. A. Bowlby, H. G.

Van Dusen, F. A. Fisher, W. E. Dement, Chas. S. Wright, C. J. Trenchard and Samuel Elmore who shall be styled collectively, "The water commission", and are hereinafter mentioned and referred to as "The commission." [L. 1899 P. 792]

(Note:—See Sec. 204)

First Meeting

SECTION 142. Within thirty days from the time this act goes into effect, the seven persons named in section 141 hereof shall meet at some convenient place in the city, on the written call of three or more of their number published in a daily paper of the city for not less than three days before the time named therein for said meeting, and organize, by the election of a presiding officer from their number, who shall be styled "The chairman of the commission", and also a clerk, who shall be styled "The clerk of the commission." [L. 1899 P. 792]

(Note:—See Sec. 204)

Term of Office—Vacancies—Quorum

SECTION 143. The Commission shall fill any vacancy that may occur in that body by death, resignation, removal from the city, or otherwise, by the appointment of a person to be a member thereof who is a bona fide resident and taxpayer of the city; and five members of the commission shall constitute a quorum for the purpose of organization, as well as the transaction of all other business. The present commission shall hold office until the first Monday in January, 1909, and until their successors shall have been elected and have qualified, and at the general election to be held on the second Wednesday of December, 1908 a commission consisting of nine members shall be elected, two of which members shall be elected from each ward, and one at large, one member from each ward shall be elected for the term of four years, and one from each ward for the term of eight years and the commission at large shall be elected for the term of eight years, and the successors of each shall be elected for the full term of eight years, so that one member of the water commission from each ward shall be elected every four years, and the term of office shall be eight years and until their successors are elected and have qualified, and any person appointed to fill a vacancy shall hold for the remainder of the unexpired term. [L. 1899 P. 793; Am. Elec. Dec. 12, 1906]

(Note:—See Sec. 204)

Chairman to Preside

SECTION 144. The chairman of the commission shall if present preside at all the meetings thereof, and in case of his absence the commission may appoint from their number a chairman for the time being. [L. 1899 P. 793]

(Note:—See Sec. 204)

Chairman to Execute Contracts

SECTION 145. The chairman of the commission shall execute all written contracts on behalf thereof, and sign all orders for the payment of money authorized thereby. [L. 1899 P. 793]

(Note:—See Sec. 204)

Clerk—Duties

SECTION 146. The clerk of the commission is its clerical officer; and he shall make and keep a fair minute of its acts and doings, countersign all orders authorized by it and signed by the chairman for the payment of money, and witness all written contracts signed by the chairman on its behalf, keep its accounts, and have the custody of its books and papers. [L. 1899 P. 793]

(Note:—See Sec. 204)

Treasurer—Duties

SECTION 147. The water commission shall elect a treasurer, who shall be custodian of all funds arising from the sale of bonds and all moneys coming into the hands of the commission or any of the officers of said commission. He shall give bonds in such sums as the commission shall decide upon, and shall pay out the same on the order of the chairman, countersigned by the clerk. [L. 1899 P. 793]

(Note:—See Sec. 204.)

Chairman and Clerk—Term of Office

SECTION 148. The chairman and clerk aforesaid shall also do and perform all such other acts or duties as may be required of them or either of them by the commission or this act, and they and each of them shall hold their offices at the pleasure of the commission, and the clerk and treasurer shall receive such compensation as the commission may from time to time direct or prescribe. [L. 1899 P. 793]

(Note:—See Sec. 204)

Employees

SECTION 149. The commission may also from time to time employ and discharge such other agents, workmen, laborers and servants, at such compensation or wages as it may deem necessary and convenient for the accomplishment of the purpose of this act. [L. 1899 P. 793]

(Note:—See Sec. 204)

Meetings—Contracts

SECTION 150. The water commission shall meet in the city of Astoria for the transaction of business at least once a month, at such hour and place as it may direct, and at such other times as it may provide, and all meetings of said commission shall be public; and the city of Astoria shall not be bound nor be in any way liable on any

contract made by the said water commission, or any servant or agent or employee thereof, except said contract be duly authorized by resolution of said commission passed at any meeting thereof, and unless said contract be in writing and signed by the chairman and clerk of said commission; and no agent, servant or employee of said commission shall have any power or authority to incur indebtedness or liability for or on behalf of said commission or said city of Astoria for any labor, material, or for work outside of any contract of said commission, except same be authorized as hereinabove provided, or be expressed in the contract of said commission. [L. 1899 P. 794]

(Note:—See Sec. 204)

Bonds—Issue—Amount

SECTION 151. For the purpose of carrying this act into effect, the Commission is authorized to issue and dispose of the bonds of the City of denomination of from \$100 to \$1000 as the purchaser may desire, with interest coupons attached thereto, the par value of which shall not exceed the sum of \$625,000.00 signed by its Chairman and Countersigned by its Clerk, whereby the City shall be held and considered in substance and effect to undertake and promise, in consideration of the premises, to pay to the bearer of each of said bonds at the expiration of the term of years for which the same are issued, which must not be less than twenty nor more than fifty years from the date thereof, the sum named therein, in gold coin of the United States, together with interest thereon in like gold coin at the rate of not to exceed six per centum, per annum payable half yearly as provided in said coupons; PROVIDED, that all bonds theretofore [heretofore] issued by the Commission under the Authority of the existing Charter, and pursuant to the authority therein contained, shall be deducted from the amount herein authorized to be issued, and all such bonds are hereby validated and made binding obligations. [L. 1899 P. 794; Am. Elec. Dec. 13, 1916]

(Note:—See Sec. 204)

Additional Bonds—Purpose

SECTION 151-A. That the Water Commission of the City of Astoria be and is hereby authorized to issue and dispose of the bonds of the City of Astoria of the denomination of from one hundred (\$100.00) dollars to one thousand (\$1000.00) dollars, as the purchaser may desire, with interest coupons attached thereto, the par value of which shall not exceed the sum of eight hundred thousand (\$800,000.00) dollars, signed by its chairman and countersigned by its clerk, whereby the City of Astoria shall be held and considered in substance and effect to undertake and promise in consideration of the premises to pay to bearer of each of said bonds at the expiration of the term of years for which same are issued, which must not be less than twenty (20) nor more than fifty (50) years from the date thereof, the sum re-

quired therein in Gold Coin of the United States, together with interest thereon in like Gold Coin at the rate not to exceed six (6) per centum per annum, payable semi-annually as provided in said coupons, and that the indebtedness created by such bonds shall not be held to be included in the limit of indebtedness of said Water Commission as limited by Section 151 of the Charter of the City of Astoria, but exclusive thereof.

That the money derived from the sale of bonds, as hereinbefore provided shall be expended exclusively by the Water Commission of the City of Astoria which said Water Commission shall expend the same for the following purposes only, that is to say, for the

Renewal of the main conduit,

Enlarging the storage basin at Bear Creek, Clatsop County, Oregon.

Acquiring Water sheds,

To enlarge and extend the present water mains in the City of Astoria, and other requirements necessary for the repair and maintenance of the Water System in the City of Astoria. [Elec. Nov. 5, 1918]

(Note:—See Sec. 204)

Power and Authority of Commission

SECTION 152. The commission, or a majority thereof, has power and authority:

1. To employ, hire and discharge from time to time all such agents, workmen, laborers and servants as it may deem necessary or convenient in the conduct and management of said waterworks and said electric light plants.

2. To make all needful rules and regulations for the conduct and management of the same by the city and the inhabitants thereof.

3. To establish rates for the use and consumption of water or light by the city and the inhabitants thereof, including the people living along the line or in the vicinity of the works without the city, except that such rates for the city shall be established only by the mutual agreement and consent of the council.

4. To provide for the payment of water and light rates monthly, in advance or otherwise, and to shut off the water or light from any house, tenement or place for which the water or light rate is not duly paid, or when any rule or regulation is disregarded or disobeyed. [L. 1899 P. 794]

(Note:—See Sec. 204)

Annual Statement—Water and Light Rates

SECTION 153. On or before the first day of January of each year, the water commission of the city of Astoria shall make a written statement of the probable cost and expense of operating and maintaining the waterworks system and electric light plant, in case any exists, during the year next ensuing, and also the probable cost of any contemplated alteration, improvement or extension of such water works system or any part thereof, or said electric light plant, or both; and thereupon said commission shall ascertain and prescribe as nearly as it conveniently can such a water and light rate to be charged to consumers of water and light during such year as will insure sufficient income from the sale of water and light to pay said estimated expenses and cost, together with one year's interest on the bonds which have then been issued by said commission and are outstanding, within the meaning of the term outstanding as in the following section of this act expressed. [L. 1899 P. 795]

(Note:—See Sec. 204)

Sinking Fund

SECTION 154. The water commission shall, at the time of making the written statement and estimate provided for in the preceding section of this act, make an additional estimate in a sum equal to one per centum, and not to exceed two per centum, of the par value of the bonds mentioned in the said preceding section of this act, which sum when so estimated shall also be considered in fixing the water rate and light rate, in addition to the cost, expenses and interest the estimate of which is provided for in the said preceding section of this act; and the said sum herein provided for as an additional estimate shall also be collected as a part of said water and light rate; and said sum when so collected shall be kept and invested under the direction of the commission, or as hereinafter provided, as a sinking fund for the payment of and the redemption of such bonds. The said commission is hereby granted the privilege, in its discretion, of investing said sinking fund in the bonds or warrants of the city of Astoria, and to that end may, prior to the maturity of any bonds which have been issued by said commission and are then outstanding within the meaning of the word outstanding as hereinafter defined, on such terms and at such times as to said commission may appear advantageous to the city, purchase such of said bonds as it may be able to acquire with the said sinking fund. Said bonds when so purchased shall be by order of the said commission endorsed: "Payable only on the order of the chairman and clerk of the water commission of the city of Astoria," and said bonds when so indorsed shall be non-negotiable, but shall be deposited with the treasurer of said commission and shall not be cancelled, but shall be deemed outstanding for the purpose of said investment and for the purpose of making the additional estimate hereinabove referred to. Any surplus earnings or money received by

the commission from any source and not included in the said per centum hereinabove provided for, may, at the discretion of said commission, be carried to said sinking fund for the purposes hereinabove expressed. [L. 1899 P. 795.]

(Note:—See Sec. 204.)

Quarterly Statement—Inventory

SECTION 155. The commission shall cause a quarterly statement in detail of its receipts and disbursements to be made, and signed by its chairman and clerk, and filed with the city auditor and police judge, who shall preserve the same among the files of his office, and shall cause the same to be published in at least one daily paper of the city; and the commission shall cause to be made, filed and published, as a part of its last quarterly report of each year, an inventory or statement of the property, implements and material in its possession or control pertaining to the water works and electric light plants, together with the condition and approximate value thereof. [L. 1899 P. 796.]

(Note:—See Sec. 204.)

Qualifications of Commissioners

SECTION 156. The qualifications for Water Commissioners shall be that each is a citizen of the United States, a bona fide resident of the City of Astoria, and owns property within the corporate limits of the city upon which he pays a tax of not less than \$10.00, and whenever any member of said commission ceases to be a resident of the city, or fails to pay such a tax to the City for one year his office shall be declared vacant. [L. 1899 P. 796; Am. Elec. Dec. 14, 1910.]

(Note:—See Sec. 204.)

CHAPTER XIII.

CONDITIONS OF LABOR—FIRE DEPT. BONDS —SANITARY AND RECLAMATION COMMISSION—CIVIC CENTER COMMISSION —CEMETERY COMMISSION —MISCELLANEOUS

Hours of Labor

SECTION 157. First. Eight hours work shall constitute a days work for all employees of the City of Astoria in the Street, Water, Street-car and Light Department, employed under the proper officials.

Minimum Wage

Second. Two Dollars and Fifty Cents, shall be the minimum wages of employees in any of the aforementioned departments, per day.

Aliens Not To Be Employed

Third. Only citizens of the United States of America and those who have declared their intention to become such shall be eligible to perform contract or any other work for the city.

Conditions of Contracts

Fourth. Every contract for work to be performed for the city must provide that in the performance of the contract, eight hours shall be the maximum hours of labor on any calendar days. Any contract for work to be performed for the City which does not comply with the provisions of this section shall be null and void, and any officer who shall sign the same shall be guilty of misfeasance and upon proof of such misfeasance, shall be removed from office.

Conditions of Bonds

Fifth. Any contractor who shall undertake any contract for the construction of any public work shall be required to give bond, with two or more sureties, in a sum to be fixed by ordinance, conditional that such contractor will pay all persons performing labor or furnishing material in executing the contract upon which any such person furnishing labor or material shall have a right to bring suit in the name of the City of Astoria; which suit shall be prosecuted to final judgment as a suit in equity for the benefit of all persons interested. [L. 1899 P. 797; Am. Elec. Dec. 12, 1906.]

Sanitary and Reclamation Commission—Powers—Organization

SECTION 158. In order to protect the health of the inhabitants of the City of Astoria and to prevent the noisome disease breeding stench that arise from the tide flats, it is deemed necessary and proper that the tide land, mud flats and overflowed lands within the City be reclaimed by filling in the same to and above the high tide land [line] and that bulkheads and retaining walls be constructed within the City at such place or places as may seem proper or convenient for the purpose of retaining and holding such fills as the same shall from time to time be made or constructed and that the power and authority given to the City of Astoria by this amendment to its Charter including the construction of all necessary bulkheads and retaining walls and fills, and the issue and sale of all bonds to defray the expense thereof, and the establishment of improvement districts and letting and supervision of all contracts for reclaiming and filling in all or any portion of the tideflats, mudflats or overflowed lands of the City, and making the assessments, to defray the costs and expenses thereof, and issuing and selling bonds to pay the contractors

for such filling where the property owners avail themselves of the privilege of paying their assessments in installments, and all other acts necessary and proper to be done in carrying out the provisions of this act, except where herein otherwise specially provided, shall be exercised and performed as hereinafter provided by a Commission consisting of nine electors and bona fide residents and taxpayers of the City of Astoria, which said Commission shall be known as and styled "The Sanitary and Reclamation Commission of the City of Astoria," and said Commission shall collectively consist of the following named electors and bona fide residents and taxpayers of the City of Astoria, to-wit:—Alfred Kinney, W. C. Logan, W. E. Schimpff, W. P. O'Brien, Norris Staples, Martin Franciscovich, E. Hauke, Andrew Birch and Jens Hansen.

And when the Commission shall be hereinafter referred to or mentioned it shall be deemed to mean and include "the Sanitary and Reclamation Commission of the City of Astoria. The remaining members of the Commission shall fill any vacancy that may occur in the body by death, resignation removal from the City, or otherwise, by the appointment of a person to be a member thereof who is a bona fide elector, resident and taxpayer of the City; and five members of the Commission shall constitute a quorum for the purpose of organization, as well as the transaction of all other business, but it shall require the affirmative vote of five members of the Commission to adopt any measure or authorize any action. The commissioners named shall hold office until the first Monday in January, 1917, and until their successors shall have been elected and qualified, and at the general election to be held the second Wednesday in December, 1917, a commission consisting of nine members shall be elected, two of which members shall be elected from each ward of the City and one at large; one member from each ward, shall be elected for the term of four years, and one from each ward for the term of eight years and the commissioner at large shall be elected for the full term of eight years, so that one member of the Commission from each ward shall be elected every four years, and the term of office shall be eight years and until their successors are elected and shall have qualified, and any person appointed to fill a vacancy shall hold for the remainder of the unexpired term.

Within sixty days from the time this act goes into effect, the nine persons named in this section shall meet at some convenient place in the City on the written call of three or more of their number personally served upon the other members or published in a daily paper of the City for not less than three days before the time named therein for said meeting and organize by the election of a presiding officer from their number who shall be styled "Chairman of the Sanitary and Reclamation Commission of the City of Astoria," and a secretary of the Commission who shall be styled "Secretary of the Sanitary and

Reclamation Commission of the City of Astoria" and also a Treasurer who shall be known as "Treasurer of the Sanitary and Reclamation Commission of the City of Astoria," and also an attorney who shall be styled "Attorney of the Sanitary and Reclamation Commission of the City of Astoria" and it shall not be necessary for said Secretary, Treasurer or Attorney to be a member of the Commission, and said Secretary, Treasurer and Attorney shall hold office at the pleasure of the Commission and may be removed at any time and shall receive such salary or salaries as the Commission from time to time by by-law or resolution prescribe; and such Commission shall also have power and authority to employ and hire and discharge at pleasure and to fix the compensation of an engineer and such other inspectors, workmen, laborers and servants as it may deem necessary and convenient for the accomplishment of the purposes of this act.

At the first meeting of the Commission, the members thereof shall qualify by taking and subscribing the following oath of office before some person authorized to administer an oath, viz:

"STATE OF OREGON, }
COUNTY OF CLATSOP, } ss.

I,....., being first duly sworn, say under oath, that I will support the Constitution and laws of the State of Oregon and of the United States and honestly and faithfully discharge my duties as a member of the Sanitary and Reclamation Commission of the City of Astoria during my term of office."

In case all the persons named in this act shall fail to meet and qualify at the time fixed in the notice of the first meeting, a majority of the members of said Commission may meet, qualify and organize and thereupon may fill any vacancy in the board caused either by the failure or refusal of any member thereof to qualify or by his resignation or withdrawal either before or after the adoption of this act. If any member of the Commission shall fail to qualify at the first meeting thereof, he shall be deemed to have declined to serve as a member of the Commission and in case any person above named shall decline to serve as a member of the Commission by failing to qualify or otherwise, his office shall be deemed vacant and such vacancy shall be filled by appointment made by a majority of the remaining qualified members of the Commission. Any member of the Commission may be removed by a majority vote of the members of the Commission upon conviction after hearing for misfeasance, malfeasance or neglect of duty and the office of any member of the Commission who shall fail to attend three consecutive regular meetings of the Commission may be declared vacant. [L. 1899 P. 797; Am. Elec. Dec. 11, 1912.]

(Note:—San. and Rec. Com. succeeded by Common Council. See Sec. 203)

Duties of Chairman

SECTION 159. The Chairman of the Commission shall preside at all the meetings and appoint all regular or standing committees thereof, and in case of his absence, the Commission may appoint from their number a chairman for the time being. The Chairman of the Commission shall execute all written contracts on behalf of the same and sign all orders or warrants for the payment of money authorized thereby, and together with the Secretary shall verify [verify] and sign the record of the proceedings of all meetings. The Chairman of the Commission shall hold office until the first Monday in January following his appointment, and until his successors shall have been elected and qualified, and a chairman of the Commission shall be selected by a majority vote of the Commission by ballot at the meeting of the Commission on the first Monday in January of each year. [L. 1899 P. 797; Am. Elec. Dec. 11, 1912]

(Note:—See Sec. 203)

Duties of Secretary

SECTION 160. The Secretary of the Commission shall be its clerical officer and he shall make and keep an accurate record and minute of its acts and proceedings, countersign all warrants and orders authorized by it and signed by the Chairman, for the payment of money, and attest all written contracts signed by the Chairman on its behalf, keep its accounts and have and keep the custody of all its books and records and perform such other duties as may be prescribed by resolution of the Commission. [L. 1899 P. 798; Am. Elec. Dec. 11, 1912]

(Note:—See Sec. 203)

Duties of Treasurer

SECTION 161. The Treasurer of the Commission shall be custodian of all funds arising from the sale of bonds, and all moneys coming into the hands of the Commission or any of the officers of said Commission from collection of taxes or assessments, or any other source whatever. He shall give a bond with two or more sufficient sureties in such sum as the Commission shall provide conditioned for the faithful performance of his duties as Treasurer of the Commission and that he will keep or account for and pay over to his successor all funds coming into his possession by virtue of his office. The Treasurer shall keep (up) all funds derived from the sale of bonds by said Commission and from all other sources under this act in a separate fund and shall pay the same out only upon the order of the Chairman, countersigned by the Secretary and no order or warrant shall be issued except in pursuance of an order adopted by the Commission. [L. 1899 P. 798; Am. Elec. Dec. 11, 1912]

(Note:—See Sec. 203)

Rules of Order

SECTION 162. The Commission may adopt rules for the government of its members and its proceedings and on the call of any two of its members must cause the yeas and nays to be taken and entered in its journal upon any question before it, and its deliberations and proceedings must be public. [L. 1899 P. 798; Am. Elec. Dec. 11, 1912]

(Note:—See Sec. 203)

Meetings

SECTION 163. The Commission shall meet in the City for the transaction of business at least once a month at such hour and place as it may direct and at such other times as it may provide, and said Commission shall hold an annual meeting on the first Monday in January of each year at the hour of noon, and it may be convened by the Chairman at any time upon not less than one day's notice to each member at that time present in the City. [L. 1899 P. 799; Am. Elec. Dec. 11, 1912]

(Note:—See Sec. 203)

Legislation

SECTION 164. Said Commission shall act only at regular or special meetings and neither the City of Astoria nor said Commission shall be bound by any contract or in any way held liable thereon unless the same shall be authorized by a resolution of such commission and made in writing and by order of the Commission signed by the Chairman and Secretary thereof, or some other person duly authorized on behalf of the Commission. The style of all resolutions or by-laws of said Commission shall be "Be it resolved by the Sanitary and Reclamation Commission of the City of Astoria." The Commission may provide for punishing any person for violating any Resolution or by-law by fine or imprisonment in the City Jail or [by] both such fine and imprisonment upon conviction thereof before the Auditor and Police Judge of the City of Astoria. [L. 1899 P. 800; Am. Elec. Dec. 11, 1912]

(Note:—See Sec. 203)

Powers of Commission—Tax Levy—Bonds

SECTION 165. The City of Astoria is hereby authorized and empowered to construct, keep and maintain bulkheads or retaining walls in, upon, over, along, under, across or on any of the streets, alleys or highways of the City of Astoria that are now laid out and established or that may be hereafter laid out or established or secured either by dedication or condemnation or otherwise and to construct and maintain the same upon any right of way therefor hereafter secured, either by purchase, dedication or condemnation, or in any other manner, which said bulkheads or retaining walls shall be of such length, dimension, kind or character, and constructed at such place or places as the

Commission shall from time to time determine and designate at and below the extreme high tide line on the shore of Water frontage of the Columbia River, above or below low tide within the City, and for the purpose of constructing retaining walls or bulkheads the City may acquire by purchase or condemnation, or otherwise, such rights of way as in the judgment of the Commission may be necessary or convenient for the construction and maintenance of the same. Said Commission shall have power and authority at any regular meeting thereof, to levy a tax not exceeding five (5) mills on the dollar, in any one year, upon the taxable property of the City, which said tax shall be levied by resolution, which shall be certified to the Common Council of the City of Astoria before said Council shall levy taxes for general municipal purposes for the ensuing year, and such taxes shall be included in the general levy of taxes for that year and as made by the Common Council of the City of Astoria, which tax shall be collected at the same time and in the same manner as other taxes of the City of Astoria are collected, and when so collected shall be turned over to the Treasurer of the Commission and shall be exclusively under the control of such Commission and shall be used exclusively for the purpose of defraying the expenses of constructing such bulkheads and retaining walls, and pay interest on bonds issued for that purpose, and for retiring or redeeming such bonds, and in paying salaries of officers, servants and employees and the general incidental expenses of the Commission, and to defray the costs and expenses of constructing said bulkheads or retaining walls; said Commission may, also, from time to time, as required, issue and sell negotiable bonds of the City of Astoria running for a period of not less than forty (40) years, the aggregate amount of which bonds for the construction of such bulkheads or retaining walls shall not exceed the sum of \$500,000.00, \$300,000.00 of which has heretofore been expended and is included in the total amount of \$500,000.00 authorized to be issued hereby. All bonds issued and sold to raise funds for the construction of bulkheads or retaining walls shall provide that the same may be recalled and paid at the option of the City at par, at any time after the expiration of ten (10) years from the date of issuance of the same, provided that nothing herein contained shall be construed to limit or restrict the amount of twenty (20) year bonds that may be issued and sold from time to time to defray the costs and expenses of filling in the tide lands, mud flats, overflowed lands where the owners of property assessed to defray the expenses thereof shall avail themselves of the privilege of paying assessments in ten (10) equal installments, as hereinafter provided. It being the express intention of this Act that the costs and expenses of constructing the bulkheads or retaining walls shall be defrayed by general taxation of the issue and sale of bonds, but the costs and expenses of filling in and reclaiming the tide lands, mud flats and overflowed lands shall be by local special assessment levied upon each lot or parcel of land or tract of water frontage filled

in, according to the benefits resulting from the filling in and reclaiming of the same, including the filling in of the abutting streets and alleys. All bonds issued under this Act shall bear such rate of interest as may be determined upon by the Commission, not exceeding five (5) per cent per annum, and all bonds issued to pay for filling in or reclaiming the tide lands, mud flats and overflowed lands, on account of persons owning property assessed for that purpose, availing themselves of paying assessments in installments, shall provide that the same shall be redeemable at the option of the City at par, with accrued interest at any time after the expiration of two (2) years from the date of issuance; and all bonds shall be signed by the Chairman and Secretary of the Commission, and the full faith and credit of the City of Astoria shall be pledged to the payment of all bonds issued under this Act.

No part of the expenses of filling in or reclaiming any of the tide lands, overflowed lands, mud flats or water frontage including the streets of any reclamation district (excepting the retaining walls or bulkheads) shall be paid from general taxation, but the whole expense of filling in and reclaiming such tide lands, mud flats or water frontage in any district, including the streets and street crossings and alleys thereof, shall be defrayed by special assessment upon the lots, lands and premises, inclusive of water frontage, included within the special assessment district to be constituted of the lands so filled in and benefited by the improvement; and the contract for any such improvement shall provide that the contractor shall look exclusively to such assessments and the funds to be derived therefrom for payment for constructing the same, except whenever any of the owners of the land assessed for such improvement shall ask for the privilege of paying his assessment in ten (10) installments, as hereinafter provided.

The Commission, for and on behalf of the City of Astoria, shall have power and authority to issue and dispose of negotiable bonds of the City of Astoria, from time to time, equal in amount to the par value thereof to the amount remaining due the City of Astoria on account of such persons so assessed having availed themselves of the privilege of paying such assessments in installments, and the said bonds shall be payable twenty (20) years from date of issue, and draw interest at such rate as the Commission shall determine, not exceeding five (5) per cent per annum, payable semi-annually, and shall provide that the same may be recalled at any time after two (2) years from the date of issue, at par plus accrued interest, and all moneys paid to the Treasurer of the Commission on account of installments of such assessments shall immediately be used in retiring such bonds.

Such bonds may be issued and sold at par direct to the contractor executing the work, the aggregate amount of such twenty (20) year bonds so issued on account of installments shall not exceed \$800,000.00, at any one time, \$500,000.00 of which has heretofore been

authorized and is included in the total amount of \$800,000.00, authorized to be issued hereby, and such bonds, as well as the bonds issued to secure funds for constructing bulkheads and retaining walls shall not be taken into computation in ascertaining the limit of indebtedness of the City mentioned in Section 132 and other Sections of the Charter of the City of Astoria pertaining thereto.

When the expense of any fill shall be assessed against any land belonging to the City or used for public buildings or public grounds and exempt by law from such assessments the amount of such assessments shall be paid by the Common Council to the Treasurer of the Commission by warrant on the Treasurer of the City of Astoria payable out of the general fund. [L. 1899 P. 800; Am. Elec Dec. 11, 1912; Am. Elec. Jan. 15, 1920]

(Note:—See Sec. 203)

Eminent Domain

SECTION 166. In case the Commission shall at any time desire to acquire any real property or water frontage within the City for a right of way upon or over any land or lands or water frontage to construct or maintain any bulkhead or retaining wall across or upon such land or lands or water frontage it may maintain an action in the Circuit Court of the State of Oregon for Clatsop County against the owner or owners thereof for that purpose and it shall not be necessary in order to maintain any such action to submit any question to a vote of the taxpayers, inhabitants or voters of the City; or in case the Commission shall through its Chairman and Secretary certify to the Common Council of the City of Astoria that it has been unable to agree with the owner or owners of property desired for said purpose as to the amount to be paid for the appropriation thereof, the said Common Council shall by Ordinance direct an action or actions to be instituted in the name of the City of Astoria in the Circuit Court of the State of Oregon for Clatsop County to condemn and appropriate to the use of such City such right of way and it shall not be necessary in order to maintain any such action to submit any question to a vote of the taxpayers, inhabitants or voters of the City and such action shall be commenced and prosecuted in the manner prescribed by the general laws of the State of Oregon, providing and regulating the mode of proceedings to appropriate land by private corporation [corporations]. [L. 1899 P. 800; Am. Elec. Dec. 11, 1912]

(Note:—See Sec. 203)

Contracts for Bulkheads

SECTION 167. No contract for the construction of any bulkhead or retaining wall shall be let or entered into by the Commission until plans and specifications for the same and a complete and detailed estimate of the costs thereof shall have been made and filed with the Commission and approved by a resolution thereof, in which resolution

said Commission shall specify and provide the time and manner of constructing and completing the proposed improvement and all necessary matters relating to the execution and inspection and approval of the work and the time and manner of the payment of the contractor therefor.

All contracts shall be let to the lowest responsible bidder after advertisement for bids published at least ten(10) days in a daily newspaper printed and published in the City of Astoria, and no contract for any bulkhead or retaining wall shall be let at a price exceeding the estimated cost thereof. The Commission shall provide for rejecting any and all bids, and the contractor entering into any contract for the construction of any bulkhead or retaining wall shall be required to give bonds with one or more sufficient sureties in such sum as the Commission may determine, conditioned for the faithful performance of the contract, and that the contractor will pay all persons supplying labor or material in the performance of the same upon which bonds any person or persons supplying labor or material shall have a right to bring action against such principal and surety or sureties in the name of the City of Astoria. Provided, however, that when in the judgment of the Sanitary and Reclamation Commission the bids received are excessive, unreasonable or otherwise unsuitable, the said Commission may proceed to do the work directly by such means as may be determined upon. The Sanitary and Reclamation Commission shall in all cases have the right to reject any and all bids. [L. 1899 P. 800; Am. Elec. Dec. 11, 1912; Am. Elec. Jan. 15, 1920]

(Note:—See Sec. 203)

Power to Fill Private Property

SECTION 168. Whenever the Sanitary and Reclamation Commission of the City of Astoria shall consider it necessary to fill in or reclaim any of the tide lands, mud flats, overflowed lands or water frontage in the City of Astoria in order to protect the health of the inhabitants of said City, the City of Astoria is hereby given power and authority to fill in or reclaim any of the tide lands, mud flats, overflowed lands, and water frontage and the abutting streets within the said City of Astoria to such depth or level as said Commission shall deem proper including all streets, alleys, parks, squares, lots, blocks, tracts, parcels of real estate and water frontage north of or below the extreme high tide line or north of any street next South of said line or between the extreme high tide line or any street next south thereof and the U. S. Bulk-head line and may establish and lay out reclamation districts and provide for filling in such districts as said Commission shall from time to time consider necessary and proper and defray the costs and expenses thereof by levying special assessments upon the lots, lands and premises, including the water frontage franchises, rights of way and easements within each district so reclaimed according to the benefits resulting to each lot, tract or parcel

of land, tract of water frontage, right of way, franchise or easement within the district from the filling of the same or reclamation of the same, including the costs and expenses of filling in the streets and inter-sections thereof within the district so reclaimed and each lot, tract or parcel of land, including water frontage, right of way or franchise in each district shall be assessed such proportion of the entire costs and expenses of making the fill including the filling of the streets and alleys as the benefits resulting to such lot, tract or parcel of land, water frontage, right of way or franchise is proportionate to the benefit resulting to all such property from the improvement of such district. And provided further that any and all streets within any reclamation district may be filled in to the same level or grade that the lots, blocks, tracts of land or water frontage in or to the full established grade of such street or streets or to such depth or level below the established grade as the Commission shall deem proper or advantageous; and provided further that whenever the boundary of any district to be filled in shall be the line of any street which is to be filled in whole or in part as of the improvement of the district the lots, lands and premises including water frontage abutting upon or adjacent to and specially benefited by the filling in of such street or portion thereof may be included within the special assessment district and be assessed for its proportion of the cost of filling in such street according to the benefits resulting therefrom, although such lots, lands or premises or water frontage be not within the district to be filled in or reclaimed. [L. 1899 P. 800; Am. Elec. Dec. 11, 1912]

(Note:—See Sec. 203)

Special Assessments—Procedure

SECTION 169. Whenever the Sanitary and Reclamation Commission of the City of Astoria shall deem it necessary in order to protect the health of the inhabitants of any portion of the City to fill in and reclaim any portion of the tide lands, mud flats, overflowed lands or water frontage of the city and to defray the cost thereof by special assessment they shall so declare the fact and their determination or intention to reclaim or fill the same by resolution stating in general terms the nature and character of the fill and the elevation or level of the same including that of the street or streets to be filled and shall designate and describe the district to be filled in and reclaimed and the district upon which the special assessment shall be levied to defray the costs and expenses thereof; and shall cause estimates of the expenses thereof and specifications for the proposed improvement to be made and filed with the Secretary of the Commission. It shall be sufficient to describe in general terms the nature and character of the fill and the elevation and level thereof including the elevation or level to which the streets are to be filled. Such resolution shall direct the Secretary of the Commission, upon the estimate of the costs and expenses thereof and specifications for the proposed im-

provement being filed with him, to cause notice of the intention of the Commission to cause such fill to be made to be given by publication in a daily newspaper published in the City of Astoria, which notice shall contain a statement of the improvement to be made in general terms and a statement of the district to be filled in and to be assessed and a statement that an estimate of the costs of the improvement and specifications for the proposed work has been filed, and such notice shall be published in such paper for at least ten days.

If a remonstrance against such proposed fill or improvement signed by persons owning one-half of the property in the district to be improved or reclaimed and assessed, shall be filed with the Secretary of the Commission by the time of the next regular meeting of the Commission following the final publication of such notice, no such fill or improvement shall be ordered except by the affirmative vote of seven members of the Commission, but if no such remonstrance be filed the same may be ordered by a majority vote of the members of the Commission. At any time after the expiration of said time in which a remonstrance can be filed and within four months thereof, and also after such estimates and specifications are filed, the Commission may by resolution order the improvements or fill constructed and prescribe the time and manner of making the same, and upon the passage of such resolution declaring the intention of the Commission to make such fill or improvement and giving of the notice in this section provided and the filing of the estimate of the cost and expenses thereof and specifications for the proposed work and passage of the resolution ordering the improvement or fill and prescribing the time and manner of making the same, the City of Astoria shall be deemed to have gained jurisdiction for the purpose of making the improvement and assessing the property benefited thereby to defray the costs and expenses thereof. [L. 1899 P. 800; Am. Elec. Dec. 11, 1912]

(Note:—See Sec. 203)

Contracts for Fills

SECTION 170. The Commission shall provide by resolution for the time and manner of doing the work of reclaiming or filling in any reclamation district subject only to the following restrictions, viz.: After such notice as may be prescribed in the resolution the work must be let to the lowest responsible bidder, and the Commission shall provide for the rejection of any and all bids when deemed unreasonable, provided, however, that when in the judgment of the Sanitary and Reclamation Commission the bids received are excessive, unreasonable, or otherwise unsuitable, the said Commission may proceed to do the work directly by such means as may be determined upon. Said Commission shall provide for taking security by bond in such sum as it shall consider reasonable, conditioned for the faithful performance of any contract let under its authority, and that the contractor will pay all persons supplying labor and material used

in the performance of the work and conform to the requirements of the charter and all ordinances of the City of Astoria relating to public works, and the provisions of such bond may be enforced by an action in the name of the City of Astoria. The Commission shall provide by resolution for the time of the completion of the work and for the inspection and acceptance thereof. [L. 1899 P. 801; Am. Elec. Dec. 11, 1912; Am. Elec. Jan. 15, 1920.]

(Note:—See Sec. 203.)

Board of Assessors

SECTION 171. When by the provisions of this act the cost and expenses of filling or reclaiming any district of tide lands, mud flats overflowed lands, or water frontage is to be defrayed by special assessment upon the property so filled in, within such district benefited by the improvement, such assessment may be made as herein-after provided. The Sanitary and Reclamation Commission shall select three disinterested free-holders of the City of Astoria to act as a Board of Assessors which shall make the special assessments authorized by this act. If a member of such Board shall be interested in any property in any special assessment district directed assessed by the Commission, they shall appoint some other person to act in his stead in making the assessments, who for the purpose of the assessment shall be a member of the board and such Board of Assessors may be changed from time to time at the pleasure of such Commission. [Elec. Dec. 11, 1912.]

(Note:—See Sec. 203.)

Assessment Roll—Claims For Damages

SECTION 172. When any special assessments are to be made pro rata upon the lots, lands and premises including water frontage, rights of way and franchises in any special assessment district according to the benefits the Commission shall by resolution either at the time of ordering the fill or reclamation or before or after said time direct the same to be made by the Board of Assessors, and shall state therein the amount to be assessed and described or designate the lots, lands and premises, water frontage, rights of way and franchises constituting the district to be assessed. Upon receiving such order or directions, the Board of Assessors shall make out an assessment roll listing and describing therein all the lots, premises, parcels of land, water frontage, rights of way and franchises to be assessed, and the valuation thereof with the names of the owners thereof, if known, and shall levy thereon the amount to be assessed in the manner directed by the provision of this act. They shall assess upon each lot or parcel of land, tract of water frontage, right of way or franchise such relative portion of the whole sum to be levied as shall be proportionate to the estimated benefit resulting to such lot or parcel of land, tract of water frontage, right of way or franchise from the improvement and when such an assessment is completed they shall

report the same to the Commission and file the same with the Secretary thereof. The cost and expenses of any improvement which may be defrayed by special assessment shall include the cost of survey, plans, assessment and advertising and the cost of filling in the property reclaimed including the streets and intersections thereof.

In case it shall become necessary to take or damage any property within any improvement district for the purpose of constructing the filling or reclamation thereof, the Sanitary and Reclamation Commission shall upon a claim for such damages being filed by the owner of such property, cause a written notice to be served by the Secretary of said Sanitary and Reclamation Commission upon such owner stating the time and place of hearing of such matter, and at said time and place proceed to hear and determine the value of such property or the amount of such damages, and to make compensation therefor from the general fund or direct that the amount thereof be assessed to the property benefited.

Whenever any parcel of land within the boundaries of any proposed improvement district shall be wholly filled to the proposed grade or elevation of the proposed fill, such parcel of land may be excluded from the list of lands to be assessed, when in the opinion of the Sanitary and Reclamation Commission justice and equity requires its exclusion. [Elec. Dec. 11, 1912.]

(Note:—See Sec. 203.)

Confirmation of Assessment

SECTION 173. When any special assessment shall be reported by the Board of Assessors to the Sanitary and Reclamation Commission as in the above section directed, the same shall be filed with the Secretary thereof and numbered; before adopting the assessment, the Commission shall cause notice to be published at least ten days in some newspaper of the City of the filing of the same with the Secretary thereof appointing a time when a committee of the Sanitary and Reclamation Commission will meet to review the assessment. This committee and said Board of Assessors shall act as a Board of Equalization and shall have power to raise or lower the whole or any part of such assessment; provided, that in case any assessment is raised the party affected thereby shall be notified in writing at least three days before such change shall be made. Any person objecting to the assessment must file his objection thereto in writing with the Secretary of the Commission. The said Committee and Board of Assessors shall report the result to the Commission which shall have the power and authority to review and correct the action of said Board of Equalization and by resolution confirm the same as corrected; or they may refer the same back to the Board of Assessors of the Commission for revision, or annul it and direct a new assessment, in which case the same proceedings shall be had as in

respect to the previous assessment. When a special assessment shall be confirmed, the Secretary of the Commission shall endorse a certificate thereof upon the roll showing the date of confirmation. When any special assessment shall be confirmed by the Commission, it shall be final and conclusive. All special assessments from the date of confirmation thereof shall constitute a lien upon the respective lots, parcels of land, water frontage, rights of way and franchises assessed and shall also be a charge against the person to whom assessed, until paid. Upon the confirmation of such assessment, it shall be the duty of the Secretary of the Commission to enter a statement thereof in the docket of the City liens of the Sanitary and Reclamation Commission of the City of Astoria. [Elec. Dec. 11, 1912.]

(Note:—See Sec. 203.)

Lien Docket

SECTION 174. The docket of city liens of the Sanitary and Reclamation Commission is a book in which must be entered in pursuance to Section 173, the following matter in relation to assessments for the filling in and reclaiming of any tide lands overflowed lands or water frontage in any improvement district.

1st. The name of the owner of each lot, tract or parcel of land or tract or parcel of water frontage or right of way or franchise assessed or that the owner is unknown.

2nd. The number or letter of the lot assessed and the number or letter of the block and the town or addition in which it is situated, or if a tract of land or water frontage or right of way or franchise, the description of the same.

3rd. The sum assessed upon such lot or tract of land, right of way or franchise and the date of entry.

4th. The time and manner in which the same is to be paid, and if payable in installments, the amount of each installment and the date of payment. [Elec. Dec. 11, 1912.]

(Note:—See Sec. 203.)

Payment in Installments—Reassessments

SECTION 175. Whenever the assessment for filling in or reclaiming any district against a lot of twenty-five feet by one hundred feet or an equivalent quantity of land shall amount to the sum of \$100.00 or more, the Commission shall order that the assessment for such improvement may be paid in ten equal installments, one to be paid at the time for the payment of the special assessment and one shall be paid every two years thereafter at such time as the Commission shall order together with interest on the portion still remaining unpaid at the rate of five per cent per annum until the whole sum is paid; provided however, that all persons entitled to the bene-

fit of this provision shall on or before the confirmation of such assessment, or within such further time as shall be provided in the resolution confirming the assessment file with the Secretary of the Commission a written application that he be allowed to pay the costs of such fill or improvement in installments in which written application he shall also state that he does thereby waive all and any irregularities in such proceedings for the filling or reclamation of such district and the levying of the assessment for that purpose, and giving therein also a description of his property affected thereby by the lots, blocks or other convenient description and thereafter and thereupon such property owner and such property thereby affected shall pay the cost of such improvement in installments as above provided. Provided further, however, that such owner and such property shall have the privilege at any time of paying the whole of such assessment and all interest accrued, and thereupon have such property released from the lien of said assessment.

Provided further, that whenever the assessment of any one person or persons owning property jointly, company or corporation for such fill or improvement, shall exceed the sum of \$300.00 then such person or persons, company or corporation shall have the privilege of this section as to payment in installments upon like terms.

All special assessments, except such installments thereof as the Commission shall make payable at a future time as provided herein shall be due and payable on confirmation or at such time thereafter as the Commission may prescribe.

In case any installment of [or] assessment against any lot or parcel of land shall not be paid within thirty days from the time the same becomes due, the Commission shall have the privilege and option of declaring by resolution that all of the remaining unpaid installments which stand against the same property shall at once become due and payable, and when so declared all such installments may be collected at the same time and in the same manner as in case of the first installment then over-due or said remaining unpaid installments may be collected at one time by suit in the circuit court of the State of Oregon for Clatsop County, in which suit the person [persons] owning the property upon which the unpaid installments for any one improvement remaining due may be joined as parties defendant.

Whenever any special assessment shall be adjudged illegal or invalid for any reason or in case there shall have been a failure to assess the cost of any improvement upon the lands properly chargeable therewith the Commission shall have power to cause a new assessment to be made for the same purpose for which the former assessment was made. All the proceedings for such reassessment and for the collection thereof shall be conducted in the same manner as provided for the original assessment, and whenever any sum or any part

thereof levied upon any premises in the assessment so set aside, has been paid and not refunded, the payment so made shall be applied upon the reassessment upon such premises and the reassessment shall be to that extent satisfied. No judgment or decree of any court, nor any act of the Commission vacating a special assessment shall destroy or impair the lien of the City upon the premises assessed for such amount of the assessment as may be equitably charged against the same or as by a regular assessment of proceedings might have been lawfully assessed thereon; and provided further that in case of any irregularity of any of the proceedings for the filling in or reclaiming of any district or the levying of the assessment to defray the costs and expenses thereof, whether such irregularities be jurisdictional or otherwise the City of Astoria shall have power to bring suit in the Circuit Court of the State of Oregon for Clatsop County against the owner or owners of the lot or lots, block or blocks, or parcel or parcels of land, including water frontage rights of way or franchises upon which the cost of such improvement might or could have been charged or imposed and which were benefited thereby, which said lands, lots and premises and water frontage and rights of way and franchises shall include all lots, lands and premises, water frontage, rights of way and franchises within the reclamation district and recover the proportion of the costs of such improvement from each of said lots, lands, and premises, water frontage, rights of way and franchises benefited by such improvement according to the benefit resulting to each from the improvement. In any such suit so instituted, all persons whose property is or would be so liable for the payment of any such proportion of the assessment aforesaid shall be joined as parties defendant in one suit and the judgment rendered therein shall be a several judgment in rem against each of said lots or parcels of land and water frontage, right of way or franchise owned by each of the several defendants for its proportion of the cost of the improvement, and the costs and disbursements and the lien thereof shall be decreed upon the premises. The general laws of the State of Oregon governing suits in equity, service of summons, and other process shall apply to any such suit. [Elec. Dec. 11, 1912]

(Note:—See Sec. 203)

Lien Docket Public Writing

SECTION 176. The docket of City liens in which such assessments shall be entered and all other records of the Commission, shall be deemed public writings and the originals or certified copies of the same or any part thereof shall be entitled to the force, and effect thereof, and from the date of the entry of an assessment upon a lot or part thereof, tract or parcel of land, water frontage or right of way or franchise, the sum so entered is to be deemed a lien thereon which

said lien shall have priority over all other liens or incumbrances thereon whatsoever. [Elec. Dec. 11, 1912]

(Note:—For levy and collection of assessments for Reclamation work see Sections 82-83-84-85-87-88-89-90 and 203)

(Note:—See Sec. 203)

Certificate of Ownership

SECTION 177. For the purpose of ascertaining who is the owner of any lot or part thereof, parcel or tract of land, including water frontage, right of way or franchise assessed for filling in or reclaiming the same, including the streets and intersection thereof, the Secretary of the Sanitary and Reclamation Commission shall take the certificate of the County Clerk of Clatsop County stating who is the owner thereof at the date of the resolution ordering the assessment as may appear from the Records of Deeds of said County, which certificate such County Clerk is authorized and required to give when demanded to give the same by the Secretary of the Commission. [Elec. Dec. 11, 1912]

(Note:—See Sec. 203)

(See also note to Sec. 176)

(SECTION 178. Collection of assessments. Elec. Dec. 11, 1912; Repealed Elec. May 19, 1922)

(SECTION 179. Issuance of warrant. Elec. Dec. 11, 1912; Repealed Elec. May 19, 1922)

(SECTION 180. Sale of property. Elec. Dec. 11, 1912; Repealed Elec. May 19, 1922)

(SECTION 181. Deed. Elec. Dec. 11, 1912; Repealed Elec. May 19, 1922)

(SECTION 182. Redemption. Elec. Dec. 11, 1912; Repealed Elec. May 19, 1922)

(SECTION 183. Suit to recover land. Elec. Dec. 11, 1912; Repealed Elec. May 19, 1922)

(SECTION 184. Tender of amount paid at sale. Elec. Dec. 11, 1912; Repealed Elec. May 19, 1922)

Contractor May Dredge River

SECTION 185. Any contractor who has entered into any contract with the City of Astoria to fill in or reclaim any reclamation district under this act may dredge out material for the purpose of making the fill from the bed of the Columbia river along the City water front; outside of the pier head line under such restrictions and regulations as

the Sanitary and Reclamation Commission may from time to time prescribe by resolution. [Elec. Dec. 11, 1912]

(Note:—See Sec. 203)

Improvement of Streets

SECTION 186. Nothing in this act contained shall be so construed as to in any way abridge or interfere with the power of the Common Council of the City of Astoria to improve any and all streets thereof in any manner now provided; and said Common Council may improve any street by constructing retaining walls on each side thereof to retain the fill and by grading and filling the same to the established grade and by macadamizing or paving the same or in any other manner whatever, and assess the costs and expenses thereof against the property benefited thereby as now provided by the Charter of the City of Astoria; and provided further that whenever any street over the tide lands or tide flats of the City of Astoria shall be improved by filling the same to the established grade and macadamizing or paving the same and the assessment for such improvement against a lot twenty-five feet by one hundred feet or an equivalent quantity of land shall exceed the sum of \$100.00 the owner of the property so assessed shall upon application therefor to the Common Council before confirmation of the assessment and waiver of all irregularities in the proceedings have the privilege of paying such assessment in ten equal installments, one of which shall be payable at the time the assessment is confirmed and one every two years thereafter with interest on all unpaid installments at the rate of six per cent per annum payable annually until all installments are paid in full, which said assessments except as herein otherwise provided shall be levied and collected in the same manner as other street assessments are levied and collected and all the provisions of the charter shall be applicable to and govern the mode of proceeding for such improvement and the levy and collection of the assessments to defray the costs thereof. [Elec. Dec. 11, 1912]

(Note:—Sec. 186 appears to be, in part, impliedly repealed by Sec. 79 Subd. 1)

Limit of Indebtedness

SECTION 187. Neither the City of Astoria or [nor] said Commission shall incur any indebtedness in carrying out the provisions of this Act in excess of said \$500,000.00 for constructing bulkheads or retaining walls, \$300,000.00 of which has heretofore been authorized and is included herein, and the said \$800,000.00 for filling in and reclaiming the tide lands, mud flats and overflow lands, \$500,000.00 of which has heretofore been authorized and is included herein, and the indebtedness of the City shall be limited to that sum in excess of the present limit of indebtedness of the City as prescribed by Section 132

and other Sections pertaining thereto of the charter of the City. [Elec. Dec. 11, 1912; Am. Elec. Jan. 15, 1920]

(Note:—See Sec. 203)

Payment for Street Improvements from General Fund—When

SECTION 188. The Common Council of the City of Astoria may pay from the General Fund of said city, the amounts of all special fund warrants heretofore issued in payment of street improvements where for any reason the special assessment levied for street improvements on account of which such special fund warrants were issued, shall be invalid, or in cases where the city has been guilty of negligence in failing to provide or collect such special assessments, the payment of which special fund warrants has been contingent upon the collection of such special assessments, and the City of Astoria may also pay from its General Fund, the amounts of all special fund warrants heretofore issued, covering street improvements, in cases where the property of the assessment district, on account of which such special fund warrants have been issued, have been sold to the city of Astoria, or any person, as now provided by law, for failure to pay said assessments; and provided further, that the City of Astoria may pay from the General Fund, special fund warrants heretofore issued in payment for the completion of a portion of a street improvement, where the entire work of such street improvement has, for any reason, not been completed or has been abandoned, and provided further, that the amounts so paid from the general fund to take up and liquidate such special fund warrants, shall not be taken into computation in ascertaining the limit of indebtedness provided by the Charter of the City of Astoria, and provided further that the City of Astoria shall make provisions for transferring from the special fund to the general fund all amounts hereafter paid on account of street assessments for street improvements where the amount of such special fund warrants have been paid from the general fund as herein provided, and provided further, that this section shall in no way interfere with the collection of street assessments heretofore levied. [Elec. Mar. 22, 1916]

(Note:—Sec. 188 applies also to Sewers, see Sec. 98)

Civic Center Commission—Powers—Bonds—Eminent Domain

SECTION 189. The City of Astoria is hereby authorized and empowered to acquire by purchase, or by the exercise of its power to Eminent Domain, or by either or both, or otherwise, a tract or tracts of land within the corporate limits of such city, to be selected and acquired by the commission hereinafter provided for, for public, recreative, healthful, social, pleasurable, instructive, athletic and public park purposes, and for all public civic purposes and to construct and maintain thereon for such uses and purposes athletic fields and grounds, play grounds, recreative grounds, public baths, wading pools, public fair grounds, and such other structures and superstructures

which, in the judgment of said Commission, shall promote and further the objects and purposes hereinbefore expressed.

The power and authority hereby granted shall also be held to include the power and authority to construct and maintain a public auditorium and such other structures in addition to those mentioned and not necessarily of the same character for all public, civic, healthful purposes, and such as shall promote the public health and provide for the general welfare of the people, and for such purposes may issue bonds of the City of Astoria running for a period of not less than twenty (20) years, nor more than fifty (50) years, and to sell and dispose of the same as hereinafter provided.

The City of Astoria is hereby authorized and empowered to join with the State of Oregon and Clatsop County, or either one thereof in the ownership construction and maintenance of a public auditorium in the event it is deemed advisable to construct such auditorium upon a joint arrangement and agreement, wherein the same will be also used for an armory, fair building and auditorium or other joint purposes.

In the event the City of Astoria shall be unable to agree with the owner or owners of any lands, premises or tenements, desired for the purposes herein provided for, then, in that event the said City of Astoria is hereby authorized to institute an action or actions in its name to condemn and appropriate such lands, premises and tenements to the use of said City, and it shall not be necessary, in order to maintain any such action, to submit any question to the vote of the taxpayers, inhabitants or voters of the city. Such action or actions shall be commenced and prosecuted to final determination in the manner provided by the general laws of the State of Oregon, providing and regulating the mode of procedure to appropriate lands by private corporations. [Elec. Jan. 15, 1920; Am. Elec. May 19, 1922]

(Note:—Civic Center Comm. succeeded by Common Council. See Sec. 206)

Organization of Commission

SECTION 190. The power and authority given to the City of Astoria by section 189 shall be exercised as hereinafter provided by the following taxpayers and bona fide residents thereof, namely:

Geo. W. Sanborn, Otto A. Owen, C. W. Halderman, E. B. Hughes, James L. Hope, and G. C. Fulton, and the Mayor of the City of Astoria. The Mayor of the City of Astoria shall be ex-officio presiding officer of such Commission and a full member thereof, and entitled to vote on all questions the same as any other member of such Commission.

That the said Commission shall be styled and designated "THE CIVIC CENTER COMMISSION," and whenever the word "Com-

Section 190.

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mission" is referred to herein, it shall be held to include and refer to "The Civic Center Commission."

The term of office of the commissioners herein named shall ordinarily be six (6) years, but at the general election to be held November, 1922, a successor to two (2) of said commissioners, to be determined by lot accordingly as hereinafter provided, shall be elected, and thereafter at each biennial election a successor to two (2) of the commissioners herein named shall be elected, to be determined by lot as hereinafter provided, until a successor to each of said commissioners shall have been elected and qualified. That said commissioners so elected shall each hold office for the term of six (6) years from the first day of January following their election after having duly qualified, and until their successors shall have been elected and qualified.

That within sixty (60) days from the issuance of the proclamation by the Mayor of the adoption of this amendment to the charter of the City of Astoria, the persons named in this section shall meet at the City Hall upon call of the Mayor of the City, or any three of said commissioners, said call to be served upon the members of said Commission either personally or by mail, not less than twenty-four (24) hours prior to the time named therein for such meeting, and shall then organize for the purpose of transacting business.

The Auditor and Police Judge of the City of Astoria shall be Secretary of the said Commission, and the City Attorney of the City of Astoria shall be the Attorney for said Commission, and the City Surveyor of the City of Astoria shall be Surveyor for such Commission and neither of said officials shall receive any additional compensation for his services, and the commissioners shall receive no salary for their services.

At the first meeting of the Commission, the members thereof shall qualify by taking and subscribing the oath required by Section 25 of the charter of the City of Astoria. In case any of the persons named in this act shall fail to meet and qualify at the time fixed in the notice of the first meeting, a majority of the members of said Commission may meet, qualify and organize, and thereupon any vacancy in the Commission caused either by the failure or refusal of any member thereof to qualify, or by his resignation or withdrawal either before or after the adoption of this act, or if any member of the Commission shall fail to qualify at the first meeting, he shall be deemed to decline to serve as a member of the Commission, or in case any member above named shall decline to serve as a member of said Commission by failing to qualify or otherwise, his office shall be deemed vacant, and all such vacancies shall be filled by appointment made by a majority of the remaining qualified members of the Commission.

Any member of the Commission may be removed by a majority vote of the members of the Commission, upon conviction after hearing, for misfeasance, malfeasance, or neglect of duty, and the office of any member of the Commission who shall decline to attend three consecutive regular meetings of the Commission may be declared vacant.

That at the first meeting of the Commission, the commissioners shall draw lots to determine their tenure of office, that is to say: They shall draw lots and determine which of the two commissioners' office will expire at the regular biennial city election to be held in November, 1922, and at each succeeding election, until the successor to each of the commissioners hereby appointed shall be duly elected.

It shall be the duty of the Commission to spread the result upon the records of the meeting, and when so determined and so recorded, the term of office of each commissioner hereby appointed shall be determined by such record, and his successor shall be elected accordingly. [Elec. Jan. 15, 1920]

(Note:—See Sec. 206)

Presiding Officer—Contracts—Accounts

SECTION 191. The Mayor of the City of Astoria shall preside at all the meetings and appoint all regular or standing committees thereof, and in case of his absence, the Commission may appoint from their number a chairman for the time being.

The Mayor shall execute all written contracts on behalf of the Commission and sign all orders or warrants for the payment of money authorized by the Commission, [and] together with the Auditor shall verify and sign the records and proceedings of all meetings.

It shall be the duty of the Auditor to keep an accurate record and minute of the acts and proceedings of the Commission, and countersign all warrants and orders authorized by it and signed by the Mayor for the payment of money, and attest all written contracts signed by the Mayor on its behalf, and keep the accounts of the Commission, and to have the custody of all writs, books and records, and to perform such other duties as may be prescribed by resolution of the Commission. [Elec. Jan. 15, 1920]

(Note:—See Sec. 206)

Treasurer

SECTION 192. The City Treasurer of the City of Astoria shall be Treasurer of the Commission, and shall be custodian of all funds arising from the sale of bonds and otherwise and all moneys coming into the hands of the Commission from and [the] collection of taxes, or otherwise, and shall keep separate accounts of all transactions re-

lating to the said Commission and shall keep all moneys of the Commission and funds of the Commission separate and apart from the City Business. [Elec. Jan. 15, 1920]

(Note:—See Sec. 206)

Rules of Order

SECTION 193. The Commission may adopt rules for the government of its members and its proceedings, and shall be the sole judge of the election of its successors. [Elec. Jan. 15, 1920]

(Note:—See Sec. 206)

Meetings

SECTION 194. The Commission shall meet at the City Hall for the transaction of business at least once a month, at such hour as it may direct, and at such other times as it may provide. [Elec. Jan. 15, 1920]

(Note:—See Sec. 206)

Contracts—Form of Resolutions

SECTION 195. That neither the City of Astoria, nor said Commission, shall be bound by any contract, or held liable thereunder, unless the same shall be authorized by resolution of such Commission and made in writing and by order of the Commission signed by the Chairman and Secretary thereof, or some other person duly authorized on behalf of the Commission.

The style of all resolutions or by-laws of said Commission shall be "BE IT RESOLVED BY THE CIVIC CENTER COMMISSION OF THE CITY OF ASTORIA." [Elec. Jan. 15, 1920]

(Note:—See Sec. 206)

Employees

SECTION 196. The Commission may also from time to time employ and discharge such agents, workmen, laborers and servants at such compensation or wages as it may deem necessary or convenient for the accomplishment of the purposes herein expressed. [Elec. Jan. 15, 1920]

(Note:—See Sec. 206)

Bonds—Sinking Fund

SECTION 197. For the purpose of carrying this act into effect, the Commission is hereby authorized and directed to issue and dispose of Bonds of the City of Astoria, of the denominations from One Hundred Dollars (\$100.00) to One Thousand Dollars (\$1,000.00), as the purchaser may desire, with interest coupons thereto attached, the par value of which shall not exceed the sum of three (3) per cent, of the assessed value of all taxable and assessable property within the

corporate limits of the City of Astoria, the same to be signed by the Mayor and countersigned by the Auditor and Police Judge, whereby the City shall be held and considered in substance and effect to undertake and promise, in consideration of the premises, to pay to the bearer of each of said bonds, at the expiration of the term of years for which the same are issued, which must be not less than twenty (20) years, nor more than fifty (50) years, from the date thereof, the sum named therein in Gold Coin of the United States, together with interest in like Gold Coin at the rate of not to exceed six (6) per cent. per annum, payable half yearly as provided in said coupon, and the amount of said bonds shall not be held to be within the limit of the indebtedness of the City of Astoria within the terms of the existing charter of said City.

The Commission shall provide a sinking fund sufficient to redeem all bonds at maturity. [Elec. Jan. 15, 1920]

(Note:—See Sec. 206)

Tax Levy—Limit

SECTION 198. For the purpose of carrying out the objects and purposes herein expressed, the Commission be and is hereby authorized to levy a tax on all the taxable property within the corporate limits of the City of Astoria each year not to exceed three (3) mills on the dollar upon the valuation of such taxable property, and the same shall be collected as all other taxes of the city, and by the Treasurer kept in a separate fund and paid out accordingly as hereinbefore provided. [Elec. Jan. 15, 1920]

(Note:—See Sec. 206)

Vacancies

SECTION 199. All vacancies occurring in the Commission, excepting the Mayor, no matter how occurring, shall be filled by appointment by the remaining commissioners, and [such appointee] shall hold office during the unexpired term of the commissioner to whom he shall be appointed to succeed and until his successor shall have been duly elected and qualified. [Elec. Jan. 15, 1920]

(Note:—See Sec. 206)

Special Meetings

SECTION 200. Special meetings of the Commission may be called and had at such times accordingly as may be provided from time to time by resolution of the commissioners. Such Commission shall have power to adopt a resolution providing the time and manner of calling special meetings. [Elec. Jan. 15, 1920]

(Note:—See Sec. 206)

Commission to Control Property

SECTION 201. The Commission herein named shall have exclusive control of the grounds acquired under the provisions of this act, including all buildings, structures, the auditorium, athletic fields and grounds and buildings on such grounds, and the entire improvements, and shall have power, and it shall be the duty of such Commission to make all needful and necessary rules and regulations governing the same and the manner of the use thereof.

The Commission shall have power and authority to make reasonable charges to be determined by it for the use of said grounds, or any portion thereof, or the auditorium or any building or structure situated thereon, other than for general public municipal purposes. [Elec. Jan. 15, 1920]

(Note:—See Sec. 206)

Fire Department Bonds—Sinking Fund

SECTION 202. The City of Astoria, Oregon, is hereby authorized and directed to issue and dispose of the bonds of the City of Astoria in the sum of \$50,000 of the denominations from \$100 to \$1,000, as the purchaser may desire, with interest coupons thereto attached, the same to be signed by the Mayor and countersigned by the Auditor and Police Judge, whereby the City of Astoria shall be held and considered in substance and effect to undertake and promise, in consideration of the premises, to pay to the bearer of each of said bonds at the expiration of the term of years for which the same are issued, which term of years shall not exceed 20 years from the date thereof, the sum named therein, in Gold Coin of the United States, together with interest in like Gold Coin at the rate of not to exceed 6 per cent. per annum payable half yearly, as provided in said coupons, and the amount of said bonds shall not be held to be within the limit of the indebtedness of the City of Astoria within the terms of the existing Charter of said City.

The City of Astoria shall provide a sinking fund sufficient to redeem said bonds at maturity.

That the money derived from the sale of bonds, as hereinbefore provided, shall be expended by the City of Astoria for the purpose of paying for the purchase of additional equipment to [for] the Fire Department of the City of Astoria and for the purpose of enlarging and extending the said Fire Department of the City of Astoria within the limits of the City of Astoria, Clatsop County, State of Oregon. [Elec. Nov. 2, 1920]

(Note:—See Sec. 54 Subd. p Par. 3)

**Sanitary and Reclamation Commission Abolished—
Assessments—Repeals**

SECTION 203. That from and after thirty days after January first following the election of the Mayor and Commissioners as in this Act provided, the office of each Sanitary and Reclamation Commissioner of the City of Astoria shall be and is hereby terminated, and all employees of such Commission or Commissioners shall be discharged, and that the Commission known and designated in the Charter of the City of Astoria as "The Sanitary and Reclamation Commission of the City of Astoria" at the expiration of said thirty days shall be and is hereby abolished. That all the powers, jurisdiction and authority of such Commission or Commissioners given or granted by the charter of said City of Astoria shall be and are hereby, at the expiration of said thirty days, vested exclusively in the Common Council to be exercised by such Council exclusively the same as if such powers, jurisdiction and authority had been originally and at all times vested in and exercised by such Council. That all legal contracts and legal obligations heretofore or hereafter, and prior to said thirty days' period, entered into or incurred by said Sanitary and Reclamation Commission shall be binding upon the City of Astoria, and all bonds, warrants, and all evidences of indebtedness legally issued or delivered by or under the authority of such Sanitary and Reclamation Commission shall always be held and construed to be the legal and binding contracts and obligations of the City of Astoria. That whenever and wherever the words "Sanitary and Reclamation Commission of the City of Astoria," or words or paragraphs of the charter of the City of Astoria referring to such Commission or Commissioners are or shall be used or employed therein, the same shall in all instances be construed and held to mean the Common Council of the City of Astoria, to the end that all the powers, jurisdiction, duties and obligations of said Sanitary and Reclamation Commission specified in such charter shall become and be, at the expiration of said thirty days' period, vested exclusively in and to be exercised by said Common Council. That within said period of thirty days aforesaid, said Sanitary and Reclamation Commission of the City of Astoria shall turn over and deliver to the Auditor all the records, documents and writings of such Commission, together with all the assets and property in possession thereof, together with a full and complete statement and description, date and amount of all obligations incurred by such Commission and not discharged, with a sufficient history of each item thereof to give such Auditor a clear and comprehensive knowledge of the same, stating therein the amount of each obligation, the date incurred, when due and where payable, together with such additional information desired by the said Auditor or the Common Council of said City.

That Sections 82, 83, 84, 85, 86, 87, 88, 89 and 90 of the Charter of the City of Astoria, as by this Act amended, shall apply to and govern the levy and collection of all assessments, and the sale of all property

for the non-payment of such assessments, as to all improvements heretofore or hereafter made under the power and authority of Sections 158 to 177, both inclusive, of the Charter of the City of Astoria.

That Sections 178, 179, 180, 181, 182, 183 and 184 of the Charter of the City of Astoria, be and the same are hereby repealed. [Elec. May 19, 1922]

Water Commission Abolished

SECTION 204. That from and after thirty days after the first of January following the election of the Mayor and Commissioners as in this act provided, the office of each Water Commissioner of the City of Astoria shall be and is hereby terminated, and all employees of such Commission or Commissioners, shall be discharged, and that the Commission known and designated in the charter of the City of Astoria as "The Water Commission" at the expiration of said thirty days shall be and is hereby abolished. That all the powers, jurisdiction and authority of such Commission or Commissioners given or granted by the charter of said City of Astoria shall be and are hereby, at the expiration of said thirty days vested exclusively in the Common Council to be exercised by such Council exclusively the same as if such powers, jurisdiction and authority had been originally and at all times vested in and exercised by such Council. That all legal contracts and legal obligations heretofore or hereafter, and prior to said thirty days' period, entered into or incurred by said Water Commission shall be binding upon the City of Astoria, and all bonds, warrants and all evidences of indebtedness legally issued or delivered by or under the authority of such Water Commission shall always be held and construed to be the legal and binding contracts and obligations of the City of Astoria. That whenever and wherever the words "The Water Commission," or words or paragraphs of the charter of the City of Astoria referring to such Commission or Commissioners are or shall be used or employed therein, the same shall in all instances be construed and held to mean the Common Council of the City of Astoria, to the end that all the powers, jurisdiction, authority, duties and obligations of said Water Commission specified in such charter shall become and be, at the expiration of said thirty days' period, vested exclusively in and to be exercised by said Common Council. That within said period of thirty days aforesaid, said Water Commission shall turn over and deliver to the City Auditor all the records, documents and writings of such Commission, together with all the assets and property in possession thereof, together with a full and complete statement and description, date and amount of all obligations incurred by such Commission and not discharged, with a sufficient history of each item thereof to give such Auditor a clear and comprehensive knowledge of the same, stating therein the amount of each obligation, the date incurred, when due and where payable, together with such additional information desired by the said Auditor or the Common Council of said City. [Elec. May 19, 1922]

Cemetery Commission Abolished

SECTION 205. That from and after thirty days after January first following the election of the Mayor and Commissioners as in this act provided, the office of each Cemetery Commissioner of the City of Astoria shall be and is hereby terminated, and all employees of such Commission or Commissioners shall be discharged, and that the Commission known and designated in the charter of the City of Astoria as "The Cemetery Commission" at the expiration of said thirty days shall be and is hereby abolished. That all the powers, jurisdiction and authority of such Commission or Commissioners given or granted by the charter of the City of Astoria shall be and are hereby, at the expiration of said thirty days, vested exclusively in the Common Council to be exercised by such Council exclusively and the same as if such powers, jurisdiction and authority had been originally and at all times vested in and exercised by such Council. That all legal contracts and legal obligations heretofore or hereafter, and prior to said thirty days' period, entered into or incurred by said Cemetery Commission shall be binding upon the City of Astoria, and all bonds, warrants and all evidences of indebtedness legally issued or delivered by or under the authority of such Cemetery Commission shall always be held and construed to be the legal and binding contracts and obligations of the City of Astoria. That whenever and wherever the words "The Cemetery Commission," or words or paragraphs of the charter of the City of Astoria referring to such Commission or Commissioners are or shall be used or employed therein, the same shall in all instances be construed and held to mean the Common Council of the City of Astoria, and to the end that all the powers, jurisdiction, authority, duties and obligations of said Cemetery Commission specified in such charter shall become and be, at the expiration of said thirty days' period, vested exclusively in and to be exercised by said Common Council. That within said period of thirty days aforesaid, said Cemetery Commission shall turn over and deliver to the Auditor all the records, documents and writings of such Commission, together with all the assets and property in possession thereof, together with a full and complete statement and description, date and amount of all obligations incurred by such Commission and not discharged, with a sufficient history of each item thereof to give such Auditor a clear and comprehensive knowledge of the same, stating therein the amount of each obligation, the date incurred, when due and where payable, together with such additional information desired by the said Auditor or the Common Council of said City. [Elec. May 19, 1922.]

Civic Center Commission Abolished

SECTION 206. That from and after thirty days after January first following the election of the Mayor and Commissioners as in this Act provided, the office of each Civic Center Commissioner of

the City of Astoria shall be and is hereby terminated, and all employees of such Commission or Commissioners shall be discharged, and that the Commission known and designated in the Charter of the City of Astoria as "The Civic Center Commission of the City of Astoria" at the expiration of said thirty days shall be and is hereby abolished. That all the powers, jurisdiction and authority of such Commission or Commissioners given and granted by the charter of said City of Astoria shall be and are hereby, at the expiration of said thirty days, vested exclusively in the Common Council to be exercised by such Council exclusively the same as if such powers, jurisdiction and authority had been originally and at all times vested in and exercised by such Council. That all legal contracts and legal obligations heretofore or hereafter, and prior to said thirty days' period, entered into or incurred by said Civic Center Commission shall be binding upon the City of Astoria, and all bonds, warrants, and all evidences of indebtedness legally issued or delivered by or under the authority of such Civic Center Commission shall always be held and construed to be the legal and binding contracts and obligations of the City of Astoria. That whenever and wherever the words "Civic Center Commission of the City of Astoria," or words or paragraphs of the charter of the City of Astoria referring to such Commission or Commissioners are or shall be used or employed therein, the same shall in all instances be construed and held to mean the Common Council of the City of Astoria, to the end that all the powers, jurisdiction, duties and obligations of said Civic Center Commission specified in such charter shall become and be, at the expiration of said thirty days' period, vested exclusively in and to be exercised by said Common Council. That within said period of thirty days aforesaid, said Civic Center Commission of the City of Astoria shall turn over and deliver to the City Auditor all the records, documents and writings of such Commission, together with all the assets and property in possession thereof, together with a full and complete statement and description, date and amount of all obligations incurred by such Commission and not discharged, with a sufficient history of each item thereof to give such Auditor a clear and comprehensive knowledge of the same, stating therein the amount of each obligation, the date incurred, when due and where payable, together with such additional information desired by the said Auditor or the Common Council of said City. [Elec. May 19, 1922.]

Present Officers To Continue In Office Until When

SECTION 207. That the present officers of the City of Astoria shall continue in office until the officers provided in the foregoing amendments shall be elected and qualified, and the present appointed officers of the City shall likewise continue in office until their successors in the appointive offices provided for in the foregoing amendments shall have been appointed. [Elec. May 19, 1922.]

Primary Nominations Void—Amendments Effective When—Repeals

SECTION 208. All nominations for City offices made at the primary election held on the third Friday in May, 1922, shall become void and of no effect on the adoption of this amendment.

The foregoing Charter provisions and amendments shall become effective and be in full force and effect January 1st, 1923, except that the amendments and provisions of the Charter pertaining to elections shall go into effect immediately and an election shall be held pursuant to such amendments and provisions the first Tuesday after the first Monday in November, 1922, and any person desiring to become a candidate for any elective office provided for by the foregoing Charter provisions can do so by complying with the laws of the State of Oregon governing the nomination of candidates for municipal offices as provided in Sections 3920 to 3935, both inclusive, of the laws of the State of Oregon.

That Sections number 8, 14, 17, 18, 20, 40, 42, 47, 51, 53, 55, 56, 57, 58, 59, 61, 62, 65, 66, 67, 86, 93, 94, 100, 101, 102, 120, 122, 134, 178, 180, 181, 182, 183 and 184 of the Charter of the City of Astoria be and they are each hereby repealed. [Elec. May 19, 1922.]

(SECTION 2.) All Sections of the existing Charter of the City of Astoria, or parts of Sections, in conflict with the provisions of this Act are hereby repealed in so far as the same shall be in conflict herewith. [Elec. May 19, 1922, Sec. 2 of Ord. No. 6188.]

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Amendment to the Charter of the City of Astoria adopted at Election of
May 16, 1924.—In effect ~~June 3, 1924~~. June 19, 1924.

Section 72. The Council shall have the power and authority to grade, pave, plank, gravel, curb and otherwise improve and repair the highways, streets, avenues, lanes and alleys of the city, and for the purpose of defraying the expenses thereof may divide the city into street improvement districts. The term paving shall be deemed to include the construction of crosswalks, gutters and curb. The power and authority to improve a street includes the power and authority to improve the sidewalks and pavements and to determine and provide for everything convenient and necessary concerning such improvement. The fee of all the streets now within the city and recorded between low and high water mark of the Columbia River is granted to the city, and all the streets within the city limits and at right angles to the Columbia River are extended to the ship's channel for the use of the public and the fee of the same is hereby vested in the City of Astoria, and all streets now constructed below ordinary high tide, and provided for in this act, shall vest in the city in fee, and shall forever remain open as thoroughfares for the use of the public. No part of the expenses of improving any street, lane or alley, by grading, paving, planking or graveling, or otherwise, or repairing the same, except as hereinafter provided, shall be paid from the general fund, but the whole of the expense of such improvements, including the street crossings, shall be defrayed by special assessment upon the lots, lands and premises, inclusive of water frontage out to the harbor line, included in a special assessment district, to be constituted of the lands fronting upon the part of the street or alley so improved or proposed so to be, and of such other lands as in the opinion of the Council may be benefited by the improvement; except that repairs can be made as hereinafter provided in Section 76. When the expenses of any improvement or repairs shall be assessed in a special assessment district, and there shall be lands belonging to the City or used for public buildings or public grounds owned by the United States or the State of Oregon and, as such, exempt by law from such assessments fronting on such improvement or within said district, such part of the expenses of such improvement as, in the opinion of the Council or Board of Assessors making the special assessment, would be justly apportionable to such public grounds, buildings and City property, shall be paid from the general fund, it being the purpose and intention of this section that the Port of Astoria, the County of Clatsop and School District No. 1 of said County, and any and all other municipal or quasi-municipal bodies or political divisions therein, having the power and authority to levy taxes, shall directly pay such assessments against any and all property respectively owned or held by them.

Amendment to the Charter of the City of Astoria adopted at Election of
May 15, 1924.—In effect ~~June 19, 1924.~~ June 19, 1924.

Section 79 (1) Whenever the Common Council of the City of Astoria shall have proceeded to improve any street, or part of street, or to lay any sewer, or to fill any tide land, mud flat, or overflowed lands, within the corporate limits thereof, and shall have assessed the costs of such improvement, sewer or fill, to the property benefited thereby, or liable therefor, according to the provisions of Section 74, 75, 77, 169, 171, 172 and 173 of the Charter of said City of Astoria, it shall be lawful for the owner of any property so assessed for such improvement, sewer or fill, in the sum of Fifty Dollars (\$50.00), or more, at any time within thirty (30) days from the date of the first publication of the notice provided for in Section 83 of this Charter, to file with the City Auditor, a written application to pay said assessment in installments, and such written application shall state that the said applicant and property owner does thereby waive all irregularities or defects, jurisdictional or otherwise, in the proceedings to improve the street, or lay the sewer, or make the fill, for which said assessment is levied, and in the apportionment of the cost thereof. Said application shall contain a provision that the said applicant and property owner agrees to pay said assessment in ten (10) annual installments, with interest at a rate not exceeding six per centum (6%) per annum on all of said assessments which have not been paid, as that expressed in the bond hereinafter provided for, issued to pay for such improvements. Said application shall also contain a statement by lots or blocks, or other convenient description of the property of the applicant, assessed for such street improvement, sewer or fill.

No application as aforesaid shall be received and filed by the City Auditor or other officer of the City of Astoria if the amount of such assessments with any previous assessments for street improvement, sewer or reclamation fills or other local improvements assessed against the same property and remaining unpaid shall equal or exceed the valuation of said property as shown by the last tax roll of Clatsop County; provided that application for such bonding shall be received by the City Auditor in cases where the amount of the assessment together with previous assessments for street improvements, sewer, reclamation fills or other local improvements against the property (and remaining unpaid) shall exceed the valuation of said property as shown by the last tax roll of Clatsop County if the owner shall, before making such application, pay in cash to the Treasurer of the City of Astoria such excess of unpaid assessments over the valuation as shown by such last tax roll.

All special assessments under the sum of \$50.00 or where no application for the payment of such special assessment in in-

stalments is made, as provided herein, shall be due and payable within thirty (30) days from the date of the first publication of the notice provided for in Section 83 of this Charter.

(2) APPLICATION TO PAY INSTALLMENTS, HOW KEPT AND ENTERED. The Auditor of the said City of Astoria shall keep all such applications as are herein specified in convenient form for examination. The application received for each street improvement, sewer or fill shall be separate, and he shall also enter in a book kept for that purpose, under separate heading for each street improvement, sewer or fill, the date of filing of each application, the name of the applicant, the description of the property, and the amount of the assessment, as shown in the application.

(3) ASSESSMENT LIEN DOCKET, PRIORITY OF LIENS. After the expiration of the time for filing applications for the payment of assessments by installments, as herein provided for, the Auditor shall enter in a docket kept for that purpose, under separate head for each street, sewer or fill, by name or number, a description of each lot or parcel of land, or other property against which such assessment is made, or which bears or is chargeable for the cost of such improvement, sewer or fill, with the name of the owner and the amount of such unpaid assessment. Such docket shall stand thereafter as a lien docket as for taxes assessed and levied in favor of said City of Astoria, and for the amounts of such unpaid assessments therein designated, with interest on said unpaid assessments at the rate of six (6) per cent per annum against each such lot or parcel of land, or other property, until such assessments and interest are paid in the manner hereinafter provided, and all unpaid assessments and interest, shall be and remain a lien on each lot or parcel of land, or other property, respectively, in favor of such City, and such lien shall have priority over all other liens and incumbrances whatsoever.

(4) CITY IMPROVEMENT BONDS TO ISSUE FOR IMPROVEMENTS. When such lien docket shall be made up, as hereinbefore provided, as to such assessments, the City of Astoria shall, by Ordinance, authorize the issue of its bonds in convenient denominations, not exceeding Five Hundred Dollars (\$500.00), and in all equal to the total amount of such unpaid assessments, and for which application to pay, under the provisions of this Act, have been filed, as shown by said lien docket, and such bonds, shall, by the terms thereof, mature in ten (10) years from the date thereof, and be payable in Gold Coin of the United States, and bear interest not to exceed six (6) per cent per annum, interest payable semi-annually, said interest to be evidenced by coupons attached to said bonds,

provided the right to take up and cancel such bond, or bonds, upon the payment of the face value thereof, with accrued interest to the date of payment of any semi-annual coupon period, or on the first day of any calendar month at or after one (1) year from the date of such bond, or bonds, shall be and hereby is vested in the City of Astoria. Notice, stating the date that said bonds are to be taken up and cancelled as aforesaid, and that the interest thereon shall cease at said date, shall be published in the official newspaper of the City of Astoria not less than twice during the month preceding said date, and after said date, interest upon the bonds designated in such notice shall cease. Such bonds before issuance shall be signed by the Mayor, the City Manager and the City Auditor of the City of Astoria and authenticated by the seal of the City of Astoria attached thereto, and shall be registered consecutively by number and denomination of each in a book to be kept by the City Auditor and to be known and designated as the "Improvement Bond Register." Each of such bonds, where they are issued for the improvement of streets, or for the laying of sewers, shall have distinctly and plainly inscribed or printed on the face thereof, the register number of said bond, and the words "Improvement Bond" with the name of the City of Astoria, and where such bonds are issued for filling tide lands, mud flats or overflowed lands, under the authority contained in Section 165 of this Charter, such bonds shall have printed on the face thereof, the register number of said bond and the words "Reclamation and Improvement Bond" with the name of the City of Astoria. Such bonds shall be advertised for sale and sold for the highest price obtainable, but for not less than par and accrued interest, and the proceeds thereof shall be paid by the purchaser to the Treasurer of the City of Astoria, and the par value thereof credited to the respective street improvement, sewer and Sanitary and Reclamation funds for which said bonds are issued; and the accrued interest received from the sale of said bonds shall be credited to the special improvement funds, sewer funds or reclamation funds from which interest is paid on warrants for such improvements, sewers and reclamation fills; and the premium received from the sale of said bonds shall be credited to the General Fund; provided, that the Common Council may, by Ordinance, provide for a different disposition of such accrued interest and premium not inconsistent with this Charter.

(5) **INSTALLMENT PAYMENTS — PROCEEDINGS IN RESPECT THERE-TO.** Thereafter there shall be due and payable annually, for ten years, to the Treasurer of such city, by the owner of each lot or parcel of land so assessed, whose application to pay such assessment by installments has been filed, as hereinbefore provided for, one-tenth (1-10) of

docket hereinbefore described, together with the amount of one year's interest, at not to exceed six (6) per cent per annum on unpaid assessments, or installments. The first payment aforesaid, shall be due and payable at the expiration of one year from the date of said assessment in the lien docket, and subsequent payments at the expiration of each year thereafter, until the entire amount of such assessment has been paid. It shall be the duty of the City Auditor, at least twenty (20) days before any installments and interest thereon, set forth in the lien docket, are due, to make the proper extensions of such installments and interest, on such lien docket, and turn a copy of the same over to the Treasurer of the City of Astoria, whose duty it shall be, within ten (10) days thereafter, to notify the owner, or owners, of property that the installments aforesaid will become due and payable on the due date. Such notice shall be given by mailing the same to such owner, or owners, but a failure of such owner, or owners, to receive such notice shall not be taken or held to prevent the collection of the same, as herein provided. The Treasurer of the City of Astoria shall issue a receipt to the person, or persons paying said installments and interest, and shall file duplicates of said receipt with the City Auditor, and said City Auditor shall make the proper entry on the lien docket, showing the amount of each payment and the date thereof, provided however, that at any time after issuance of such bonds, any owner, at the time being, of any such lot or parcel of land, or other property, against which the assessment is made and docketed in said lien docket, may pay into the City Treasury of the City of Astoria, the whole amount of such assessment, and for which such lien is docketed, together with full amount of interest and costs accrued thereon, to such date of payment, and upon producing to the City Auditor, the receipt of such treasurer thereof (in which receipt shall be not only stated the amount of such payment, but also, a description of the lot or parcel of land, or other property, upon which such payment is made) such City Auditor shall enter in such lien docket, opposite the entry of the lien therein, the fact of such payment and the date thereof, and that the lien thereof is discharged.

(6) **MONEY RECEIVED UNDER ACT PLACED IN WHAT FUNDS.** The Treasurer of the City of Astoria receiving any funds accruing by virtue of this Act, shall keep such funds and account thereof, separate and apart from other funds of said City. The amount of such funds paid on account of installments and interest on unpaid installments shall be placed to the credit of funds to be known and designated as "Improvement Bond Sinking Fund," or "Sanitary and Reclamation Bond Sinking Fund," and "Improvement Bond Interest Fund," or "Sanitary and Reclamation Bond Interest Fund," respectively. The amount placed

to the credit of the Improvement Bond Sinking Fund and Sanitary and Reclamation Bond Sinking Fund shall from time to time, under direction of the Common Council, be deposited in such banks as will pay the highest rate of interest thereon, or be invested in, or used for the purchase of improvement bonds or Sanitary and Reclamation Bonds of such city, at not to exceed par. In the purchase of improvement bonds or Sanitary and Reclamation Bonds, the accrued interest thereon shall be paid out of the Improvement Bond Interest Fund or Sanitary and Reclamation Bond Interest Fund, as the case may be, and all interest received by the Treasurer on account of coupons due shall be placed to the credit of the Improvement Bond Interest Fund or Sanitary and Reclamation Bond Interest Fund, as the case may be. Interest due on improvement bonds shall be paid out of the Improvement Bond Interest Fund, and interest due on Reclamation Bonds shall be paid out of the Sanitary and Reclamation Bond Interest Fund. All bonds purchased by the City shall be held by the Treasurer of the City of Astoria as a sinking fund and shall be disposed of by direction of the Common Council, when required for the redemption of bonds previously issued, as they shall become due and payable.

(7) ENTRY OF PAYMENTS MADE IN LIEN DOCKET. Entry of payments

of installments, interest and costs made under the provisions of this Act, shall be made in the lien docket aforesaid, as the same shall be received, with the date thereof, and such payments made and entered in said lien docket, shall be and operate as a discharge of such lien, to the amount of such payment and from the date thereof.

(8) OBLIGATION UNDER THIS ACT NOT WITHIN LAW LIMITING CITY DEBT. No obligation incurred by the City of Astoria, by virtue of this Act shall be deemed or taken to be within, or any part of the limitation by law, as to indebtedness of said City.

(9) REDEMPTION OF BONDS. At any time after the bonds, which may be issued by virtue of this Act, shall become payable, the City of Astoria, shall redeem such bonds and to that end shall redeem the same consecutively by number of such bonds, commencing with number one (1) of such bonds, and shall give notice of the readiness of said city to redeem by publication in some newspaper published, and having general circulation in said city, once each week for three (3) successive weeks, giving therein the number of the bonds which will be redeemed and the time at which such redemption will be made and after such time so fixed for redemption no interest shall accrue, or become payable on such bonds so notified for redemption.

Amendment to the Charter of the City of Astoria adopted at Election of
May 16, 1924.—In effect ~~June 3, 1924~~ June 19, 1924.

Section 132-A. The City of Astoria is hereby authorized to issue bonds in the sum of not to exceed \$200,000.00 to refund outstanding special fund warrants of said City. Said issue of bonds shall not be considered in determining the net indebtedness of said City of Astoria within the meaning of Section 132 of this Charter or of any other section limiting the indebtedness of said City but shall be exclusive thereof. Said bonds shall be serial bonds, issued in such form that the first thereof shall become due not more than three (3) years from the date of

issuance and so that the last thereof shall become due not more than twenty (20) years after the date when the same were issued and the amounts to become due each year to be approximately equal.

All parts of the Charter of the City of Astoria and all ordinances and parts of ordinances of said City in conflict with the provisions of this Charter amendment are hereby modified or repealed as the case may require, in order that this amendment may be in full force and effect.

Amendment to the Charter of the City of Astoria adopted at Election of
May 16, 1924.—In effect ~~June 3, 1924~~ June 19, 1924.

Section 134. There is hereby created and established a sinking fund as hereinafter set out for the purpose of retiring at maturity all bonds of the City of Astoria, excepting serial bonds, that have heretofore been or may hereafter be issued under the authority contained in Sections 132 and 202 of this Charter.

The Common Council shall, each year, at the time of levying taxes for other municipal purposes, levy a tax upon all the taxable property within the corporate limits of the City of Astoria in such an amount as is estimated would, if invested, together with the amount then in the said sinking fund and subsequent accruals, at the same rate of interest, payable annually, as is expressed in the bonds which are to be retired, produce a sum sufficient to retire said bonds at maturity.

Such tax money, together with the earnings from the sinking fund herein provided for, when received by the City of Astoria, shall be credited to the Municipal Bond Sinking Fund and shall be expended only for the purpose of retiring the said bonds or as is hereinafter provided.

The Municipal Bond Sinking Fund

shall, under the direction of the Common Council, be deposited with such banks as will pay the highest rate of interest, or be invested in bonds of the United States, the State of Oregon, Clatsop County, the Port of Astoria, School District No. 1 or the City of Astoria or warrants of the City of Astoria. Every bank with which the City of Astoria deposits any portion of the Municipal Bond Sinking Fund shall be required to deposit with the City Treasurer, securities or surety bonds satisfactory to the City Treasurer, in an amount not less than the greatest amount on deposit at any one time, which securities or surety bonds shall be held by the City Treasurer as a guarantee of the repayment by the banks of the amounts deposited, together with interest at the rate agreed upon.

The tax herein provided for shall not be subject to the existing tax limitations of this Charter.

When the necessity for maintaining the Municipal Bond Sinking Fund has ceased to exist and a balance remains in such fund, the Common Council shall so declare by ordinance, and upon such declaration such balance shall be forthwith transferred to the General Fund.

Amendment to the Charter of the City of Astoria adopted at Election of
May 16, 1924.—In effect ~~June 1, 1924~~ June 19, 1924.

Section 135. There is hereby created and established a sinking fund as hereinafter set out for the purpose of retiring at maturity all bonds of the City of Astoria, excepting serial bonds, that have heretofore been or may hereafter be issued under the authority contained in Section 165 for the construction of bulkheads or retaining walls.

The Common Council shall, each year, at the time of levying taxes for other municipal purposes, levy a tax upon all the taxable property within the corporate limits of the City of Astoria in such an amount as is estimated would, if invested, together with the amount then in the said sinking fund and subsequent accruals, at the same rate of interest, payable annually, as is expressed in the bonds which are to be retired, produce a sum sufficient to retire said bonds at maturity.

Such tax money, together with the earnings from the sinking fund herein provided for, when received by the City of Astoria, shall be credited to the Seawall Bond Sinking Fund and shall be expended only for the purpose of retiring the said bonds or as is hereinafter provided.

The Seawall Bond Sinking Fund shall, under the direction of the Common Coun-

cil, be deposited with such banks as will pay the highest rate of interest, or be invested in bonds of the United States, the State of Oregon, Clatsop County, the Port of Astoria, School District No. 1 or the City of Astoria or warrants of the City of Astoria. Every bank with which the City of Astoria deposits any portion of the Seawall Bond Sinking Fund shall be required to deposit with the City Treasurer, securities or surety bonds satisfactory to the City Treasurer in an amount not less than the greatest amount on deposit at any one time, which securities or surety bonds shall be held by the City Treasurer as a guarantee of the repayment by the banks of the amounts deposited, together with interest at the rate agreed upon.

The tax herein provided for shall not be subject to the existing tax limitations of the Charter.

When the necessity for maintaining the Seawall Bond Sinking Fund has ceased to exist and a balance remains in such fund the Common Council shall so declare by ordinance, and upon such declaration such balance shall be forthwith transferred to the General Fund.

Amendment to the Charter of the City of Astoria adopted at Election of
May 16, 1924.—In effect ~~June 3, 1924~~ June 19, 1924.

Section 151. For the purpose of carrying this act into effect and for the purposes hereinafter enumerated, the Common Council is authorized to issue and dispose of serial water bonds of the City of Astoria of the denomination of from \$100 to \$1,000 as the purchaser may desire, with interest coupons attached thereto, the par value of which shall not exceed the sum of \$1,425,000.00, signed by the Mayor and countersigned by the City Manager and City Auditor, whereby the City shall be held and considered in substance and effect to undertake and promise, in consideration of the premises, to pay to the bearer of each of said bonds at the expiration of the terms of years for which the same are issued, which must not be more than three years for the bonds first maturing nor more than forty years for the bonds last maturing, the bonds maturing as nearly as may be practicable in equal amounts each year, the sum named therein, in gold coin of the United States, together with interest thereon in like gold coin at the rate of not to exceed six percentum per annum payable half yearly as provided in said coupons.

That the money derived from the sale of bonds, as hereinbefore provided, shall be expended for the general purposes of

carrying this act into effect and for the following specific purposes, to-wit: Enlarging the storage basin and otherwise developing the Bear Creek headworks of the water system of the City of Astoria for either water supply or water power purposes; Acquiring water sheds; Enlarging, extending and renewing the present storage basin and water mains in the City of Astoria; and other requirements necessary for the repair, renewal and maintenance of the water system of the City of Astoria.

All outstanding bonds heretofore issued by the Water Commission prior to the 31st day of January, 1923, under the authority of the Charter, and pursuant to the authority therein contained, shall be deducted from the amount herein authorized to be issued, and all such bonds are hereby validated and made binding obligations; provided, that the amount of bonds authorized by this section shall not be held to be within the limit of the indebtedness of the City of Astoria within the terms of Section 132. of this Charter but shall be exclusive thereof.

That Section No. 151-A of the existing Charter of the City of Astoria, Clatsop County, Oregon, be and the same is hereby repealed.

Amendment to the Charter of the City of Astoria adopted at Election of
May 16, 1924.—In effect ~~June 19, 1924~~ June 19, 1924.

Section 153. On or before the first day of January of each year, the Common Council of the City of Astoria shall cause to be made a written statement of the probable cost and expense of operating and maintaining the water works system and electric light plant, in case any exists, during the year next ensuing, and also the probable cost of any contemplated alteration, improvement or extension of such water works system or any part thereof, or said electric light plant, or both, and thereupon said Common Council shall ascertain and prescribe as nearly as it conveniently can such a water and light rate to be charged to consumers of water and light during such year as will insure sufficient income from the sale of water and light to pay said estimated expenses and cost, together with one year's interest on the water and electric light bonds which have been issued and are outstanding, within the meaning of the term "out-

standing" as in the following section of this act expressed. The Common Council shall have the power to levy a tax each year of not to exceed two (2) mills on the dollar, upon all the taxable property within the City of Astoria, for the purpose of extending water mains in the City of Astoria; provided, that the amount of tax to be levied under the authority of this section shall be deducted from the probable cost of operation, maintenance and extensions hereinbefore provided for before the water rates are fixed for the ensuing year, it being the express intention of this section that the water works and electric light system shall be self-supporting, except as to such extensions within the City of Astoria of the distribution system of the water works as the Common Council shall deem should be paid by general taxation. The tax herein provided for shall not be subject to the existing tax limitations of the Charter.

Amendment to the Charter of the City of Astoria adopted at Election of
May 16, 1924.—In effect ~~June 19, 1924~~ June 19, 1924.

Section 154. There is hereby created and established a sinking fund as hereinafter set out for the purpose of retiring at maturity all bonds of the City of Astoria, excepting serial bonds, that have heretofore been or may hereafter be issued under the authority contained in Sections 151 and 151-A.

The Common Council shall, at the time of making the written statement and estimate provided for in Section 153, make an additional estimate in such an amount as is estimated would, if invested, together with the amount then in the said sinking fund and subsequent accruals, at the same rate of interest, payable annually, as is expressed in the bonds which are to be retired, produce a sum sufficient to retire said bonds at maturity. And such sum or sums when so estimated shall also be considered in fixing the water and light rate in addition to the cost, expense and interest, the estimate of which is provided for in Section 153; and the said sum or sums herein provided for as an additional estimate shall also be collected as a part of said water and light rate; and said sum or sums, together with the earnings from the sinking fund herein provided for, when received by the City of Astoria, shall be credited to the water bond sinking fund and shall be expended only for the purposes of retiring said bonds or as is hereinafter provided.

The Water Bond Sinking Fund shall, under the direction of the Common Council, be deposited with such banks as will pay the highest rate of interest, or be invested in bonds of the United States, the State of Oregon, Clatsop County, the Port of Astoria, School District No. 1 or the City of Astoria or warrants of the City of Astoria. Every bank with which the City of Astoria deposits any portion of the Water Bond Sinking Fund shall be required to deposit with the City Treasurer, securities or surety bonds satisfactory to the City Treasurer in an amount not less than the greatest amount on deposit at any one time, which securities or surety bonds shall be held by the City Treasurer as a guarantee of the repayment by the banks of the amounts deposited, together with interest at the rate agreed upon.

Any surplus earnings or money received by the Water Department from any source and not included in the said sums to be set aside annually as hereinabove provided for may, at the discretion of the Common Council, be carried to said sinking fund for the purposes hereinabove expressed.

When the necessity for maintaining the Water Bond Sinking Fund has ceased to exist and a balance remains in such fund, the Common Council shall so declare by ordinance, and upon such declaration, such balance shall be forthwith transferred to the General Water Fund.

Amendment to the Charter of the City of Astoria adopted at Election of
May 15, 1924.—In effect ~~June 19, 1924~~. June 19, 1924.

Section 165. The City of Astoria is hereby authorized and empowered to construct, keep and maintain bulkheads or retaining walls in, upon, over, along, under, across or on any of the streets, alleys or highways of the City of Astoria that are now laid out and established or that may be hereafter laid out or established or secured either by dedication or condemnation or otherwise and to construct and maintain the same upon any right of way therefor hereafter secured, either by purchase, dedication or condemnation, or in any other manner, which said bulkheads or retaining walls shall be of such length, dimension, kind or character, and constructed at such place or places as the Common Council shall from time to time determine and designate at and below the extreme high tide line on the shore of water frontage of the Columbia River and Youngs Bay, above or below low tide within the City, and for the purpose of constructing retaining walls or bulkheads the City may acquire by purchase or condemnation, or otherwise, such rights of way as in the judgment of the Common Council may be necessary or convenient for the construction and maintenance of the same. Said Common Council shall have power and authority to levy each year at the time of levying other taxes for municipal purposes, a tax not exceeding five (5) mills on the dollar, upon all taxable property within the corporate limits of the City of Astoria, which tax when so collected shall be turned over to the Treasurer of the City and shall be exclusively under the control of said Common Council and shall be used exclusively for the purpose of defraying the costs and expenses of constructing, repairing and maintaining such bulkheads and retaining walls, and paying interest on bonds issued for that purpose, and for retiring or redeeming such bonds, and in paying salaries of officers, servants and employees incident to such construction, repairs and maintenance; said Common Council may, also, from time to time, as required for defraying the costs and expenses of constructing, repairing and maintaining such bulkheads and retaining walls, issue and dispose of serial bonds of the City of Astoria of the denomination of from \$100 to \$1,000 as the purchaser may desire, with interest coupons attached thereto, the par value of which bonds shall not exceed the sum of \$500,000, signed by the Mayor and the City Manager and countersigned by the City Auditor, whereby the City shall be held and considered in substance and effect to undertake and promise, in consideration of the premises, to pay to the bearer of each of said bonds at the expiration of the terms of years for which the same are issued, which must not be more than three years for the bonds first maturing nor more than forty years for the bonds last maturing, the bonds ma-

turing as nearly as may be practicable in equal amounts each year, the sum named therein, in gold coin of the United States, together with interest thereon in like gold coin at the rate of not to exceed six per centum per annum payable half yearly as provided in said coupons. All bonds outstanding heretofore issued by the Sanitary and Reclamation Commission prior to the 31st day of January, 1923, under the authority of this Charter, and pursuant to the authority therein contained, shall be deducted from the amount herein authorized to be issued, and all such bonds are hereby validated and made binding obligations of the City of Astoria.

Provided, further that nothing herein contained shall be construed to limit or restrict the amount of bonds that may be issued and sold from time to time to defray the costs and expenses of filling in the tide lands, mud flats, and overflowed lands where the owners of property assessed to defray the expenses thereof shall avail themselves of the privilege of paying assessments in installments as hereinafter provided, it being the express intention of this Act that the costs and expenses of constructing, repairing and maintaining the bulkheads or retaining walls shall be defrayed by general taxation or by the issue and sale of bonds, but the costs and expenses of filling in and reclaiming the tidelands, mud flats and overflowed lands shall be by local special assessment levied upon each lot or parcel of land or tract of water frontage filled in, according to the benefits resulting from the filling in and reclaiming of the same, including the filling in of the abutting streets and alleys. In all cases in which the owners of property assessed to defray the costs and expenses of filling in the tide lands, mud flats, and overflowed lands, including the abutting streets and alleys shall desire to avail themselves of the privilege of paying assessments in installments they shall make application therefor and shall pay said installments in the same manner as is provided by this Charter for assessments for street improvements, the provisions of Section 175 of this Charter to the contrary notwithstanding.

No part of the expenses of filling in or reclaiming any of the tidelands, overflowed lands, mud flats or water frontage including the streets of any reclamation district (excepting the retaining walls or bulkheads) shall be paid from general taxation, but the whole expense of filling in and reclaiming such tide lands, mud flats or water frontage in any district, including the streets and street crossings and alleys thereof, shall be defrayed by special assessment upon the lots, lands and premises, inclusive of water frontage, included within the special assessment district to be constituted of the lands so filled in and benefited by the improve-

ment; and the contract for any such improvement shall provide that the contractor shall look exclusively to such assessments and the funds to be derived therefrom for payment for constructing the same, except whenever any of the owners of the land assessed for such improvement shall ask for the privilege of paying his assessment in installments, as herein provided.

The Common Council shall have power and authority to issue and dispose of negotiable bonds of the City of Astoria, from time to time, equal in amount to the par value thereof to the amount remaining due the City of Astoria on account of such persons so assessed having availed themselves of the privilege of paying such assessments in installments, and the said bonds shall be on the same terms and conditions as bonds provided under this Charter for bonds issued for street improvements, and the full faith and credit of the City of Astoria shall be pledged to the payment of all bonds issued under this act.

Such bonds may be issued and sold at par direct to the contractor executing the work, the aggregate amount of such bonds so issued on account of installments shall not exceed \$800,000.00, at any one time, \$500,000.00 of which has heretofore been authorized and is included in the total amount of \$800,000.00, authorized to be issued hereby, and such bonds, as well as the bonds issued to secure funds for constructing, repairing and maintaining bulkheads and retaining walls shall not be taken into computation in ascertaining the limit of indebtedness of the City mentioned in Section 132, and other sections of this Charter pertaining thereto.

When the expense of any fill shall be assessed against any land belonging to the City or used for public buildings or public grounds the amount of such assessments shall be paid in the same manner as is provided by this Charter in the case of street improvements.

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